

SHELTON PLANNING & ZONING COMMISSION

JULY 10, 2012

The Shelton Planning and Zoning Commission held a regular meeting on July 10, 2012 at 7:00 p.m., Shelton City Hall, Auditorium, 54 Hill Street, Shelton, CT. The Chairman reserved the right to take items out of sequence.

Commissioners Present: Chairperson Ruth Parkins
Commissioner Anthony Pogoda
Commissioner Joan Flannery
Commissioner Virginia Harger (arrived 7:50 p.m.)
Commissioner Elaine Matto
Commissioner Thomas McGorty (arrived 7:18 p.m.)

Staff Present: Richard Schultz, P&Z Administrator
Anthony Panico, P&Z Consultant
Patricia Gargiulo, Court Stenographer
Karin Tuke, Recording Secretary

Tapes (2), correspondence and attachments on file in the City/Town Clerk's Office and the Shelton Planning and Zoning Office and on the City of Shelton Website www.cityofshelton.org

CALL TO ORDER / PLEDGE OF ALLEGIANCE / ROLL CALL

Chairperson Parkins called the Regular Planning & Zoning meeting to order at 7:00 p.m. with the Pledge of Allegiance and a roll call of Commissioners and Staff members present. She noted that they would begin the meeting with the public hearings; however, she would be taking agenda items out of sequence. They would begin with the amendments to their P&Z Regulations so that they will have a Full Commission in attendance for the People's Bank Application #12-10 public hearing. Two Commissioners are expected to arrive shortly. She reviewed the procedures for public hearings and cell phone usage during the meeting.

PUBLIC HEARING

PROPOSAL OF THE SHELTON PLANNING AND ZONING COMMISSION TO AMEND SECTION 23, SCHEDULE A, USE LINE 19 (HOSPITALS AND CONVALESCENT HOMES) AND THE CONTINUATION OF PUBLIC HEARING ON THE RE-WRITE OF SECTION 32: EARTH MATERIALS REMOVAL

P&Z Vice Chairman Anthony Pogoda read the Call of the Hearing for the Shelton Planning & Zoning Commission for the Amendment of Section 23 and three pieces of correspondence.

Comm. Pogoda also read the Call of the Hearing for the Shelton P&Z Commission for the Re-write of Section 32.

***See attached correspondence to Richard Schultz, P&Z Administrator, dated ? from Regional Planning Committee of the Valley Council of Governments, David Elder, Regional Planner (pertaining to Amendment of Section 23 & Rewrite of Section 32).**

***See attached correspondence to Ruth Parkins, P&Z Commission Chairperson dated ? from the Greater Bridgeport Regional Planning Commission, Brian Bidolli, Executive Director (pertaining to Amendment of Section 23).**

***See attached correspondence to Ruth Parkins, P&Z Commission Chairperson dated ? from Greater Bridgeport Regional Planning Commission, Brian Bidolli, Executive Director (pertaining to Rewrite of Section 32).**

Chair Parkins indicated that they would begin with the Amendment to Section 23, Schedule A, Use Line 19.

Mr. Schultz indicated that Staff would be referring to two documents that are available for the public to review as stated in the Call of the Hearing. The Planning & Zoning Commission is amending two separate zoning regulations – one dealing with excavation, filling, grading and removal of earth materials. The other is for the Use Line #19 that deals with hospitals, convalescent homes, sanitariums owned and or licensed by the State of Connecticut. He indicated that he would begin with the later.

Mr. Schultz stated that it was brought to the attention of the Commission by Corporation Counsel that existing Paragraph A which reads “*the use shall not include facilities for the insane, alcoholics or drug addicts except when such facilities are owned by and located on the property of the State of Connecticut.*” He indicated that this language was inconsistent with the American with Disabilities Act (ADA). The Commission agreed and decided to have an amendment to its regulations by eliminating that paragraph. He continued that tonight is to eliminate existing Paragraph A and leaving everything else would be left intact. He commented that this one is pretty straightforward.

Mr. Schultz indicated that from time to time, the Corporation Counsel advises this Commission on a variety of issues including ADA. He commented that the next regulation amendment is for Section 32 currently entitled Earth Materials Removal. This regulation is more involved because it is a complete re-write of the regulation.

Mr. Schultz stated that this Commission has been dealing with this particular section for several years. It is quite involved just like the Sign Regulations that they rewrote last year. The document consists of 17 pages. This public hearing opened in January of this year. At the first public hearing it was recommended by audience members to make some further revisions. The Commission directed it back to the Zoning Subcommittee; they’ve revised it and this final draft is the consensus of the Commission and they are entertaining the public hearing tonight, and, hopefully, it will be closed. He reiterated that it was a 17 page document with a lot of text in it. He indicated that he would just highlight the changes.

Mr. Schultz stated that the current regulations consist of most of the language that is in here but it has been updated and hopefully, it is easier to read. They have also added new languages that are reflective of the times. He indicated that in Shelton, it is a very hilly community and more and more property owners are improving their properties and that requires bringing in large quantities of fill. They are seeing in excess of 400 cubic yards. Recently this Commission has entertained several after-the-fact filling and grading proposals. The Commission really believes that it was in the best interests of the community to have these regulations updated, easy to read, and spelled out so that the general public knows what is expected.

Mr. Schultz stated that he would just highlight some of the important changes that were made. He commented that in Shelton when excavation, grading or removing of earth materials exceeds 200 cubic yards, the abutting owners have to be contacted by the operator. Staff will be in contact with the applicant to confirm that the notification has been made. The biggest complaint that this Commission has received is that the abutting property owners had no idea what was going on in regard to the quantity of fill being brought in or the purpose of improving the property.

Mr. Schultz stated that Shelton has two distinct areas. They have the outer lying areas which is primarily one acre zoning and the Downtown area. The Downtown area consists of zones in the R-4 and R-5. They are allowing up to 50 cubic yards as-of-right. These are 50 x 100 lots and it doesn’t take a lot of fill to create havoc with the abutting property owners. The Commission felt that 50 cubic yards would be the appropriate threshold to trigger a public hearing. He reiterated that once it reaches 50 cubic yards a public hearing is required and the applicant has to hire a Professional Engineer.

Mr. Schultz stated that in the outer lying areas the Commission will allow 200 cubic yards of fill as of right without a permit and that amount can be increased up to 400 cubic

yards after a permit is processed by the Zoning Enforcement Department. He indicated that the Commission spent a lot of time on this quantity. He explained that to some people 400 cubic yards is not a lot especially if it is spread over 40,000 square feet – then it is really insignificant. But if 400 cubic yards is concentrated in one area, it can create havoc to the abutting property owners and to the City of Shelton streets and Open Space areas.

Mr. Schultz stated that on Page 4, the previous regulation had a maximum quantity of 1,000 cubic yards for properties that needed septic systems repaired or installed for existing lots. This regulation was met with significant opposition. Staff was directed to call the Valley Health District and they indicated that it's been their past practice not to have any major problems with significant fill being brought in but that is still one area that Staff has to watch and advise the Commission. There is no longer a maximum of 1,000 cubic yards – that was fairly significant but the Valley Health Dept. assured Staff and the Commission that they haven't had any problems. Obviously, they are in a recession right now and they aren't seeing a lot of development. Mr. Schultz stated that over the last three years, this Commission has only approved up to 10-15 building lots. They are beginning to see more applications this year though.

Mr. Schultz indicated that once you exceed the 400 cubic yards threshold, a Temporary Special Exception application is required and that requires a public hearing. Also, he mentioned that if you want to bring in up to 400 cubic yards, the P&Z Dept. Staff has the right to ask the property owner to hire a Professional Engineer to provide a narrative that he/she has reviewed the proposal and that it will not have a significant impact on the adjacent property owner.

Mr. Schultz added that most of the other pages deal with Sections that are in the Regulations. They just wrote them for clarity and continuity. They deal with bonding, processing machinery, and blasting. He added that the City of Shelton does have a blasting policy that the BOA adopted and this does complement that. Obviously, the Commission is very concerned about blasting and excavation especially during dry periods like this where there are airborne particles. He added that all of that is still in the Regulations and spelled out more clearly.

In regard to fill materials, Mr. Schultz stated that several years ago this Commission was faced with a large filling project – over 10,000 cubic yards and unfortunately, the material was contaminated. Over half of the fill had to be removed and that is something that the Commission felt very strongly about and they have a Section that deals with Fill Materials. He indicated that it has to be clean and they have to know where the fill is coming from; it has to be documented and that is something that the Commission has been doing right all along.

Mr. Schultz stated that they also have Hours of Operation and these are essentially consistent with their Noise Ordinance. They are respectful of the weekend and the legal holidays.

Mr. Schultz indicated that Site Restoration is a very important section. It deals with slopes, the grades, the amount of topsoil that has to be placed and the final treatment. The duration of these Temporary Special Exceptions are up to two years and the Commission can exceed it by up to a one year period.

Mr. Schultz stated that there are also Inspection Fees and Bond issues. He indicated that is essentially what is in this 17 page document. The Commission has spent a lot of time on this; Staff and the Zoning Subcommittee feel very comfortable that this is ready to be adopted by the Shelton Planning & Zoning Commission. He stated that concludes Staff's presentation.

Chair Parkins stated that before she begins she would like to express her appreciation and thanks to the Zoning Subcommittee and Staff for all their hard work and efforts on this. As the revisions show, it has been two years in the making and she thinks that they have a product that is workable after the input received from the last public hearing. They have

continued this public hearing from March 13th and she thanked everyone for the hard work and good job that has been done since then.

Chair Parkins indicated that she did have a couple of questions in going over it such as grammatical things that she won't address here but she had some questions. She referenced 32.4.2 and asked if the map is "drawn to a scale of 1" equals 40' instead of 40".

Mr. Schultz responded yes, that's correct. There's a typo.

Chair Parkins referenced 32.5.5 Site Conditions During Operation and asked about there being no mention of Soil Erosion Control being needed. She asked if this was something that was just assumed or should it be spelled out.

Mr. Panico stated that for clarity, they can incorporate a reference to soil erosion control.

Chair Parkins added that otherwise, there was no other mention of it until the end of document. She commented that Rick Schultz mentioned that the Hours of Operation match the City Ordinance. She wants to make sure that there are actually matching the City Ordinance. She commented that she thought it was 7 a.m. to 7 p.m., Monday through Friday so she wants to make sure that it conforms because otherwise it will be hard to enforce.

Mr. Schultz indicated that he would verify that.

Chair Parkins stated that she had no other comments and asked for questions or comments from the other Commissioners before opening this up to the public. With no Commission comments, she asked if there were anyone in the audience that would like speak regarding the proposed revisions to these regulations. With no one wishing to speak, Chair Parkins asked for a motion to close this public hearing.

Comm. Flannery asked if there was public water and sanitary sewers or not.

Mr. Schultz responded that A and B as shown have it with water and without water. They are taking out the reference to...

Comm. Flannery asked what it was going to have and if it was going to have public water or no public water.

Mr. Schultz responded that when served by public water supply and/or sanitary sewers, the use shall be located on a lot containing not less than 7,000 square feet for each patient or each room. He added that this is for convalescent homes or a sanitarium. He added that for "B" when the use is served by both, that density is decreased to 3,000 square feet.

Chair Parkins commented that there are two different scenarios.

Mr. Panico indicated that the only change being proposed tonight is because of the current references to the facilities for the "insane, drug addicts, etc." He added that such language should not be there.

Mr. Schultz added that they are removing that language that is inconsistent with the ADA.

Mr. Panico indicated that the other standards are as they've always been.

Mr. Schultz commented that those are all the standards that they use for Shelton Lakes, Hewitt, etc.

Comm. Flannery indicated that she understood.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to close the public hearing for Proposals of the Shelton Planning

and Zoning Commission to amend Section 23, Schedule A, Use Line 19 (Hospitals and Convalescent Homes) and the continuation of public hearing on the Re-write of Section 32: Earth Materials Removal.

Comm. McGorty arrived at 7:18 p.m.

APPLICATION #12-10, Joe Periera, Periera Engineering, LLC for Special Exception/Site Plan Approval (bank with drive through), 500 Shelton Avenue (Map 74, Lot 5), CA-2 District.

Comm. Pogoda read the Call of the Hearing for Application #12-10 and three pieces of correspondence.

***See attached correspondence to Richard Schultz, P&Z Administrator and Fire Marshal James Tortora dated 7/10/12 from Michael Montanaro 5294 Bridgeport Avenue, Shelton, CT.**

***See attached correspondence to Richard Schultz, P&Z Administrator dated ? from Robert Kulacz, City Engineer.**

***See attached correspondence to Richard Schultz, P&Z Administrator dated ? from James Tortora, Fire Marshal.**

Joe Periera, Licensed Professional Engineer, Principal at Periera Engineering, LLC, One Enterprise Drive, Shelton, CT addressed the Commission.

Mr. Periera began by passing out revised drawings that were updated based upon the Wetlands approval that they received at the last Inland Wetlands Meeting as well as a slight grading change that was made on the basis of a hydraulic analysis.

Mr. Periera explained the revised drawings beginning with the first drawing which was a survey for the property in question which is the former Huntington Hardware site. It is in the CA-2 zone which is an approved use. It is located at the intersection of Shelton Avenue or Route #108 and Old Shelton Road. It is bound at the north by Bronson Country Club, Carey & Guerrera Real Estate Office to the east and Webster Bank and the Shopping Center to the south and west. The site is approximately .65 acres and it is currently developed; it's the former Huntington Hardware site and it is mostly paved. The property is also bound on the east side by Pole Brook which has brought along an interesting design feature for the site in that it is the first site that really falls within their Floodplain Ordinance. The site itself is partially within the floodplain AE zone with a flood elevation of 249. As many of them are aware that whole area is below 249 and in the back is where, when they had the last major rainstorm, many of them saw how the (inaudible). Mr. Periera concluded his description of the existing site.

Mr. Periera indicated that the next drawing of site plan is their proposal. They are proposing to demolish the existing hardware store and build a new People's Bank branch. He referenced the rendering on the display board and explained that the building itself is colonial in architectural nature from Silver Petrocelli here. They will walk them through the architectural design of the building itself later.

Mr. Periera stated that from an engineering perspective the existing building that is there is over 3800 square feet. The bank building that they are proposing is smaller; it less than 3100 square feet. He indicated that they were providing 18 parking spaces, five of which will be assigned for employees only. Those spaces are also shown on the site plan. As far as access, the existing site has two curb cuts – one with full access on Shelton Avenue; one on Old Shelton Road. They plan to reuse those existing curb cuts except that they will be changing them to "Exit Only" and "Right Turn Only." They will provide a new full access driveway on Old Shelton Road further away from that light and that intersection. He added that cars entering the site from the main access driveway will have the option to pull over to the left, park and walk in for banking or it can drive around and queue up for a drive-through bank. He indicated that they'll also have a bypass lane where you can then roundabout from the bypass driveway and come back

around and either find a parking space or exit the site. He added that they have full circulation throughout the site.

Comm. Flannery asked if they were providing handicapped parking.

Mr. Periera responded yes, they have one handicapped parking space right by the front door at the end of the walkway. He pointed out the space on the proposed site plan. another benefit that they are bringing is to propose a new concrete golf cart path/sidewalk from the corner down to and along Old Shelton Road to the southeast corner of the property. He added that it was a real benefit to anyone who has been to the Bronson Country Club because presently the golf carts cross over Shelton Avenue and they really have a small piece of sidewalk that they cross over and then they are in the road for the rest of the way to the other side. Mr. Periera indicated that People's Bank has agreed to provide a concrete, not bituminous, sidewalk to really clean up that whole ledge and the whole safety problem there from the golf carts.

Mr. Periera indicated that the site will also feature new site lighting. They will have nine site poles, all of which are dark-sky friendly to avoid any lights shining onto the neighbors. There is a detail provided on the Detail #3 if they would like to see what the light fixture itself will look like. It is a colonial looking fixture, black in color; he believes that it works well with the colonial look of the building. He added that they also have two light fixtures mounted to the front of the building to tie the site lighting poles into the building itself.

Mr. Periera stated that they are not proposing any outside dumpsters. People's Bank will take care of all the garbage internally from the building so they don't need an exterior dumpster.

End of Tape 1A 7:50 p.m.

Mr. Periera referenced the grading plan and highlighted the fact that this new building is going to be elevated. The existing building is at an elevation of 245 and the flood zone is at 249 so it is a good four feet below flood elevation. This new building will be raised above flood elevation. Mr. Periera indicated that their initial draft of this site had quite a bit of fill being brought in to raise the site.

Mr. Periera indicated that they were made aware of this new flood ordinance so they have revised the site layout with Mr. Kulacz's blessing. Mr. Periera explained that what they have done is introduced retaining walls around the building that have allowed them to eliminate the fill around this site, keep it isolated to the building itself, and still provide handicapped accessibility and it allows the site itself to basically remain at about the same elevation it was at. This, in turn, allows them to comply with the flood ordinance and satisfy that requirement. He added that one of the changes that he mentioned in the revised set of drawings that the Commission has, is that based on the analysis that they did on Pole Brook, it allowed them to lower the elevation at the exit of the drive-through canopy slightly at about 6 to 12 inches. He reiterated that this was to show less impact on the flood zone so now they have more of a floodplain (in other words, more area for the flood waters to travel through). As part of that, they are widening Pole Brook, stabilizing the bank and the current bank that is eroding away as vertical sections; the existing parking lot along that Pole Brook is basically caving in. Mr. Periera stated that they are basically going to clean all of that up and then get, providing approval, the flood routing of Pole Brook.

Mr. Periera stated that they are not proposing any storm water catch basins, manholes or piping on this site. The existing site doesn't have any and in effort to find a Green Solution or Best Management Practices, they decided, again along with Bob Kulacz, not introduce storm water structures. They want to let the storm water run-off flow over the land and treat it through the new bio-filter located along the driveway on the east side of the property. He indicated that it would treat the storm water run-off through the bio-filter and from there it will flow into their floodplain bio-retention wetland, which Wetlands has reviewed and approved. He added that it serves two purposes – the wetland

area will provide additional storage as well as additional treatment of the storm water run-off. He indicated that this was a good Green Solution for this small site.

Mr. Periera stated that there is also an existing septic system on this site which they are removing in accordance with the Health Department regulations. He indicated that they aren't sure if the hardware store had been using it because they weren't able to find a connection but they don't believe it was connected to the sewers. He commented that they would be eliminating the septic system and making a hard connection to the sanitary sewers. Therefore, this building would now be serviced by public sewers, water and gas.

Mr. Periera referenced Page #3 and stated that this was the typical soil erosion controls – a flood gate along Pole Brook, silt fencing and hay bales to protect Pole Brook. He reiterated that all of that had been reviewed and approved by the City Engineer and Wetlands.

Mr. Periera stated that the following pages are details for the proposed items of this design and a section showing the bio-filter on Sheet #5. Unless the Commissioners have any questions for him, he would like to introduce David Stein who will discuss the building.

Chair Parkins asked about Mr. Periera's comment that there was not going to be any dumpster but an internal handling of trash. She asked if this meant that they would have staff or a cleaning service to handle this and if there would be outside receptacles for City Trash Collection or would the trash be removed somewhere offsite.

Mr. Periera responded that he thinks Dave Stein can better address that type of question. He asked if they had any more questions for him regarding the actual site.

Comm. Flannery indicated that she did not count 18 parking spaces.

Mr. Periera referenced the proposed site map and pointed out the location of all of the proposed parking spaces, counted all of parking spaces, spaces for employees and the designated handicapped parking.

Comm. Flannery noted that there were actually six employee parking spaces then, not five.

Mr. Periera responded yes, he had said 5 employee spaces in error – it is actually 6 spaces.

David Stein, Principal and Project Architect, Silver Petrocelli & Associates (an architectural engineering firm) , 3190 Whitney Avenue, Hamden, CT addressed the Commission. Mr. Stein stated that on behalf of People's Bank it was a pleasure to be able to present this project to them. They've been working on it for quite some time and they are excited to have the opportunity to get this project started. He indicated that the essence of this project is to provide a good balance for the bank's customers throughout the Shelton area and in general throughout the region. He added that they wanted to provide the service, convenience and flexibility that the customers are looking for and demand for a full service banking facility, along with a good balance of 24-hour banking which the industry is obviously going toward.

Mr. Stein indicated that the building consists of three full service offices, a lobby space, an area for tellers or transaction spaces, a waiting area with a small coffee area along with on-line banking/technology to help customers with their financial needs.

Mr. Stein stated that this would be combined with the drive-up facility which is for 24-hour banking. The outer lane would consist of a 24-hour ATM structure and the inner lane would be their passive lane consisting of a pneumatic tube fed into the building and commuted through audio and video technology since the drive-up lane is essentially half a story below and about 4 or 5 feet below the grade of the finished floor. They'd be able to communicate through the use of audio and camera technology.

Mr. Stein indicated that there would be a 24-hour walkup vestibule so customers would also have the ability to get out of their cars if they wish. There will be a space along with the 24-hour night depository to serve commercial customers that use that throughout the day. The operations of the facility will be standard banking hours, Monday through Friday and on Saturday. He believes that those hours were published at the Inland Wetlands Commission. The times of day would be those used for standard banking.

Mr. Stein stated that in terms of the building architecture it is a one-story building with a predominantly pitched roof which they can see in the overall look shown. In regard to the architectural brick façade, their intent is for colonial look which is a traditional type of building that has a stately look and scale to it. Mr. Stein indicated that they have architectural shingles on the roof, the barrel roof entry way, a copper roof, copper gutters and real brick. They are using true materials and they are not trying to embellish this with any type of faux materials. These are true building materials that they intend to use.

He explained that the super structure is a steel super structure so the building is intended to last. Mr. Stein commented that they are not cutting any corners with the detailing. He added that they've built several of these types of branches in the Milford marketplace on the Boston Post Road. That one is a slightly larger building but the details are very similar so it's a good example of another branch that they've recently designed and built for this bank.

Mr. Stein commented about the aluminum windows and indicated that they were looking for some nice glass and transparency put into the building to bring in daylight. Although it is not a LEED-certified building, it does have some significant Green principles built into the mechanical systems, and built into the envelope of the building. Their value exceeds the energy code significantly in what they are doing with the roof materials and the insulation material. On the back portion of the roof which is a flat or plaque roof they are using a white TPO? membrane so that is going to reflect a significant amount of solar gain which will beat onto the back of that surface.

Mr. Stein stated that he already mentioned the copper gutters and some of those embellishments such as up on the frieze board they'll have dental molding and a crown frieze board that wraps that perimeter. They really wanted to get into some of the traditional details with it along with a well-balanced landscaping plan which is a part of this submission.

Mr. Stein indicated that they have Dennis LaFariore who will talk about the landscaping plan. He added that there really has to be a well-balance of how this building is situated on this site and its relationship to the intersection. He added that this is a unique intersection with very different points of view. They wanted the entry connected and the functionality to be clear in the way that the building is positioned to highlight the front entryway. It is very important for a bank to be able to define that and make that clear. They've done that through the entry portico and the drive-ups. Typically drive-ups are designed around the back and they are usually difficult to see. This is fairly clear in terms of the structure that they see there and where it is positioned and located.

Mr. Stein stated that in general they really feel that they are making an enormous improvement overall to the existing site. He commented that it could be argued that the existing hardware building there didn't necessarily have the architectural impact. This building is intended to blend in with the architecture that is there, but not overstate it. Mr. Stein concluded that they think that the materials they propose will last and they hope that this Commission is in favor of this application.

Chair Parkins commented that she realizes that he is not a representative of the bank itself, but as their agent, she asked about the question previously asked to Mr. Pereira about trash receptacles.

Mr. Stein apologized and responded that the attempt is that all trash, recycling, recycling taken in the secure dumpsters will be gathered and taken off site by a third party entity.

Chair Parkins asked if the dumpsters would be secured inside.

Mr. Stein responded yes- all inside. The cleaning takes place on a daily basis and secure things, paper or such are taken away in a secure dumpster to another site. He added that nothing will be left curbside or placed outside; it will all be managed internally to the operations.

Chair Parkins indicated that he commented about providing the bank hours to the Inland Wetland Commission whose purview is different from the P&Z Commission. She indicated that they typically will ask what the hours of operation will be and asked if he could share that with them.

Mr. Stein responded that he apologized because he did not know the hours off hand at this time and did not bring that information to this meeting.

Chair Parkins commented that there was a striking resemblance of this to the architecture of the church across the street. She asked if that was planned to fit in to this.

Mr. Stein responded that they try to take their time so that there is some balance.

Mr. Periera indicated to the Chair that he could provide those bank hours of operation. He indicated that they were included in the application and the Huntington Branch hours will be Monday through Wednesday 8:30 a.m. to 4:30 p.m.; Thursday and Friday 8:30 a.m. to 6:00 p.m. and Saturday 8:30 a.m. to 1:00 p.m. The drive-up would have the same hours.

Chair Parkins thanked him for the information.

Comm. Flannery asked about the Fire Marshal's request for 26 feet and asked if that was included in this site plan. She indicated that on the plan she sees 12 feet in one location and 25 feet in another place.

Chair Parkins indicated that the Fire Marshal made a comment in his letter about the entrance driveway width needing to be 26 feet in accordance with applicable fire lane requirements.

Mr. Periera responded that was for the access to the aisle itself.

Chair Parkins indicated no, the entrance driveway.

Mr. Periera responded that they can increase that from 24 feet to 26 feet – no problem.

Comm. Flannery commented that there was an island sitting there though. She asked what good the island was by that Stop Sign.

Chair Parkins responded that was for the exit – it says "Exit Only." It is not an entrance there. There is only one entrance.

Comm. Pogoda added that there is only one entrance by Old Shelton Road.

Mr. Panico asked if the Fire Marshal has clarified with them what aisles he would consider to be fire lanes.

Mr. Periera responded no, he hasn't, but they will agree to meet with the Fire Marshal.

Mr. Panico indicated that he feels that is a point that needs to be clarified so they know where he expects to have those 26 feet.

Comm. Flannery commented about the site plan showing 24 feet in one location but then it is blocked by an island. She asked if that was going to be a problem.

Chair Parkins indicated that they would just take two feet off of that so that they can increase the width of the entrance way.

Comm. Flannery stated that it says that it is landscaping there though.

Mr. Panico reiterated that he thinks that the first step is to clarify what are considered the fire lanes.

Chair Parkins commented that the Fire Marshal specifically said the entrance driveway.

Comm. Harger arrived at 7:50 p.m.

Chair Parkins indicated that the Applicant has agreed to work with the Fire Marshal on this.

Mr. Periera asked the Chair if she would like to have Dennis LaFerriere discuss the landscaping or are there anymore questions for him or Mr. Stein.

Chair Parkins responded yes, they would like to hear about the landscaping plan.

Dennis LaFerriere, Licensed Landscape Architect and Member of the American Society of Landscape Architects, Bridgeport, CT addressed the Commission.

Mr. LaFerriere indicated that he was happy to speak to the Commission tonight to provide a brief summary of the concept of the proposed landscape plan that has been developed. He referenced the landscaping drawings and explained that the attempt was to take this very visible corner and intersection and make it a viable representation of what the architecture of the building is representing. Additionally, considering its paving on basically all four sides of the building, the plan was to try to make it so that the landscaping was completely surrounding all four sides of the building.

Mr. LaFerriere indicated that also because of its location, the landscaping plan will eliminate what they see in some sites where the parking areas are exposed to oncoming traffic and surrounding areas. He wanted to make sure that the parking spaces and the driveways were completely surrounding on the perimeter of the paving areas to represent a landscape boundary and also a foundation so that if someone is walking or driving by the facility, they would be looking into a green space. The sky would be permeated with shade trees. The shade trees are designed to be taller than the parking spaces in the minimum of the 7 foot height range so that the architecture of the building and the columns of the building are not obstructed by the landscaping but basically to enhance the building.

Mr. LaFerriere indicated that all sidewalk areas are going to have landscaping at the exterior of the site in which they would present colorful, ever-changing scenery. He indicated that there are 580 shrubs, plants and trees on the site plan and an additional 200 perennial plants which will provide the seasonal colors.

Mr. LaFerriere stated that they think that with this particular site not only does it have a residential type feeling with the architecture but they have provided something which (inaudible).

Comm. Flannery asked if there was any reason why the sidewalk ends and does not continue up Shelton Avenue.

Mr. LaFerriere responded that he would let the Project Planner answer that question.

Mr. Panico responded that there is no sidewalk on Shelton Avenue.

Chair Parkins indicated that there isn't one there right now.

Mr. Panico commented that they are putting it across their frontage.

Comm. Flannery stated that she was just thinking about Wednesday nights when they have all those concerts during the summer and people park all over the place. It would be really nice to have a sidewalk up there.

Mr. Panico responded that it is a State Road and they can't expect the applicant to put in a sidewalk in front of somebody else's property.

Chair Parkins added that there was no place to park up there anyway.

Mr. Panico indicated that they can require them to install sidewalks on portions of their frontage and that is basically what he has done in an attempt to improve the safety and avoid conflict between golf carts, vehicles and pedestrians. They have agreed to install a wide concrete sidewalk that will accommodate both pedestrians as well as golf carts without having them conflict with the cars on the street. He added that is why she is seeing that rather broad sidewalk along the Shelton Avenue frontage.

Chair Parkins commented that a sidewalk on the Shelton Avenue side would be a sidewalk to nowhere because it would just end right there and people can't park on Shelton Avenue so there would be no reason for anyone to access a sidewalk at that location.

Mr. Panico asked Mr. Periera what the plans were for snow removal with the site as intensively developed as it is. He asked if they would be trucking snow off because they probably don't dare to use any of those parking spaces to pile up snow because then there wouldn't be enough parking.

Mr. Periera responded yes, they've accounted for snow removal. He indicated that the way that they envision it is will be that trucks pull in off of the main access driveway, plow that driveway moving forward or twist it to the side; they have a bio-filter in there so it should treat any calcium chlorites or anything else that ends up there. He added that they left a snow shelf at the end of that stack of employee spaces so they can plow right up over that embankment where there is a big green area there.

Mr. Panico commented that he guesses that it will also depend on the type of winter they'll have – hopefully, not like two January's ago. On the Old Shelton Road side of it where they have the major parking facility and sidewalks he doesn't really see anything other than landscaping beds to be plowing snow into.

Mr. Periera responded yes, and he thinks that is where it will end up.

Comm. Matto asked about the landscaping plan specific to the barberry. She indicated that she kind of has a thing about non-native invasive plants.

Mr. LaFerriere responded that he believes she is referring to #17 and #18 on the landscaping plan.

Comm. Matto responded yes.

Mr. LaFerriere responded that they were put there – and basically there were going to be 17 of them. Those are not the wild barberry but more the cultivated hybrids.

Comm. Matto commented that they do flower and produce fruit.

Mr. LaFerriere responded that these here, in particular, the burgundy ones are less invasive than the normal ones.

Comm. Matto indicated yes, but they are invasive.

Mr. LaFerriere responded yes, they are something that...

Comm. Matto asked if they had to use any invasive plants. She commented that they have some really nice plant selections shown here other than that.

Mr. LaFerriere responded that in some cases where there is appearing to be an opening, he introduced them mainly as a means of making sure that the people in the area or a driveway where there is moving traffic.

Comm. Matto commented yes, but it doesn't have to be that plant.

Mr. LaFerriere responded yes, that's correct. It was chosen for the color, the burgundy to go with the brick façade.

Comm. Matto indicated yes, she understands that.

Mr. LaFerriere stated that there are other plants like Althea which is also burgundy in color and has no thorns so there are some other things. It was for the color representation and something to add a little bit of extra height and for a background to the perennials. He reiterated that they have alternatives to the barberry though.

Chair Parkins commented that if he could find alternatives that would be preferable.

Mr. LaFerriere responded yes, that will be fine.

Comm. Matto commented about the Wetland Plant List reference shown on the plan.

Chair Parkins asked if she was referring to the Shelton Avenue side where it says "See Wetlands Plant List."

Comm. Matto responded yes, and asked where the Wetland Plant List was provided.

Mr. Periera responded that there was a drawing that was submitted and approved by Wetlands that has all the wetland plants for the wetland area. It was provided by Bill Kenney.

Chair Parkins indicated that they don't have a copy of that.

Mr. Periera responded that they didn't submit it as part of the P&Z Application because they felt it was more of a Wetland issue. He added that they can certainly provide them with a copy of it.

Chair Parkins commented yes, because that it is part of the landscaping plan.

Mr. Periera responded yes, it is.

Mr. Panico asked Mr. Periera if he had any discussions with DOT relative to the geometry of that "Exit Only" onto Shelton Avenue.

Mr. Periera responded that yes, they have and the DOT has reviewed the project and on Shelton Avenue they asked if they could just provide more of angled exit to try to prohibit people from turning into it.

Mr. Panico indicated that to him, it doesn't seem like it is angled enough.

Mr. Periera responded that they will tweak that – that's fine.

Chair Parkins added that it does appear to be very convenient to just swing in there.

Mr. Panico indicated that he realizes that they are caught between a rock and hard place. They want to bend it but they also don't want to decrease the driver's visibility of whose coming from the left.

Mr. Periera responded yes, right, that's correct.

Mr. Panico stated that he thinks it could be made a little bit more acute though.

Mr. Periera responded yes, that's fine, they will do that.

Chair Parkins asked if they were planning on putting signs there – “Do Not Enter” or some type of signage there.

Mr. Periera responded yes. He referenced the site plan and pointed out that along with the STOP sign, there will be a “No Left Turn,” and on the backside facing Shelton Avenue they have a “One Way Do Not Enter” sign.

Mr. Panico indicated that they want to make it very, very difficult for anyone going easterly on Shelton Avenue to do a U-Turn back in coming in the Exit driveway.

Mr. Periera responded yes, he understands.

Comm. Harger asked if they considered even eliminating it. The prior tenant was not a (inaudible)...

Mr. Periera responded that the DOT actually suggested that they make that for full access but after meeting with Tony Panico, they all agreed, at least on the City side, to make that a right turn exit only. The DOT was actually questioning why they weren't making that a full access but he really thinks that would open a can of worms and he thinks that is something that Tony Panico didn't want at all.

Mr. Panico agreed and indicated that he would prefer not to see that.

Comm. McGorty agreed because it helps alleviate the congestion at that intersection.

Chair Parkins indicated that she thinks that with the “Do Not Enter” and that solid line showing it can't be crossed over, it should be enough of an indicator to vehicles coming down.

Chair Parkins asked if there were any other questions or comments from the Commissioners. With no comments from Staff or Commission, she opened up the public hearing to public members of the audience wishing to speak in favor of or against this proposal.

John Miller, 344 Navajo Loop, Shelton, CT addressed the Commission. Mr. Miller commented that he couldn't comment on the revised drawings because he doesn't have the latest set of drawings so most of his comments (inaudible)... Aside from the drawings which he can't comment on, he did review the traffic study that was done. The traffic report that he reviewed had been done in June 2011 and it did not take into consideration St. Lawrence School or the traffic that flows down Shelton Avenue in the afternoon hours from the Shelton High School. Mr. Miller stated that the study looks to him that it was done after the school year was over; in fact, it is dated June 16, 2011. Therefore, it doesn't reflect any of the St. Lawrence School morning and afternoon traffic from cars and school buses or the half day from kindergarten.

Mr. Miller stated that he was also concerned about the 100 year floodplain. He has lived in and worked in Shelton for about 35 years. He remembers seeing water levels, when that building was a post office, with water levels on the first floor. He went back to take a look at all the comments which were made regarding the Flood of '55. Mr. Miller indicated that Huntington Center was cut off from the rest of Shelton. They had 9.7 inches of rain within a 3 ½ hour period; the Center was cut off and there are some concerns about that area as far as the height of the Brook.

Mr. Miller added that this Brook does flow into the Means Brook/Far Mill River and it's a navigable waterway for the State of Connecticut and the Federal Government. He did not see anything in the proposal as to the Site for Phase 1 or Phase 2. There are two requirements on the Phase 1 and Phase 2 and one of the requirements would be if the properties were sold, which he doesn't believe it was. He added that he didn't know the status of the property owner or if when you change the business you can quickly

demolish. Mr. Miller stated (inaudible)...a structure that had a different type of business that handled fertilizers, oils, solvents, paint strippers – he doesn't know (inaudible) but he does know that they were available at that location. Mr. Miller stated that he was a little bit concerned with what is on that site.

Mr. Miller stated that he was concerned with the golf carts that cross in and out of that area. He commented that they are going to have to cross a two-way driveway now and they are going to see people coming around the building, making a right turn exiting onto Old Shelton Avenue where they aren't used to seeing cars come out of the back.

Mr. Miller commented about the bio-filter and stated that he was familiar with bio-filters but he doesn't know if one bio-filter for the run-off on that parking lot is going to be adequate. He stated that didn't see the size of it on the drawings because, again the drawings that he looked at last week on Thursday did not (inaudible). Mr. Miller concluded his comments.

Chair Parkins thanked Mr. Miller and asked if there were any other public comments.

Steven Grey, 48 Pine Tree Hill Road, Shelton, CT addressed the Commission. Mr. Grey stated that he wanted to add to Commissioner Matto's request that the landscaping not include barberry or other invasive plants. If they could accommodate that request, it would be appreciated. He thanked Comm. Matto for her comments.

Chair Parkins asked if there were any further comments for or against this proposal. With no other public comments, she asked Mr. Periera to address the concerns expressed.

Mr. Joe Pereira, Pereira Engineering, LLC addressed the Commission. Mr. Pereira responded to Mr. Miller's comments regarding the drawings. He indicated that the only changes that were really made were two typos that John Cook brought up during the Wetlands Meeting that they cleared up on the drawings. Also, there was the drop in grading at the exit of the drive-through; otherwise, the drawings were the same as what had been originally submitted.

Mr. Pereira indicated that in regard to the traffic study, Bruce Hillson of Traffic Engineering Solutions has done about 30 - 40 traffic studies for them. He is a true professional and all of his traffic studies complying with IT Standards. He added that other than that, he doesn't know how to respond – it does comply with the IT Standards and he does have a thorough analysis of the traffic in that area.

Mr. Pereira stated that as far as the 100 year floodplain and as far as the water reaching up to the first floor, he certainly does believe it. FEMA tends to be conservative in their estimates. The building itself is at 245 and they are saying that the 100 year flood elevation is at 249 so theoretically, if FEMA were correct, they would have four feet of water in that first floor. He added that the fact that the water comes up the first floor – he would agree with Mr. Miller that is probably the case. However, this new building will now be above 249 so they don't anticipate any issues with the building. Unfortunately, they cannot regrade the entire intersection and all the roads are below flood elevation and it is what it is. He added that there is nothing they can do about an existing road in an existing intersection.

Mr. Pereira stated that in regard to Phase 1 for the property - that has been done. They do have a copy which they can submit, if this Commission wishes. He believes that the conclusion of that Phase 1 was that there was no need for a Phase 2. In other words, there was no contamination or inkling that there was contamination of the site. He added that it is basically a clean site.

In regard to the golf carts, Mr. Pereira stated that right now they do cross a two-way, full access drive, and they do it right along the side of the road. He commented that he believes that, hands down, they are providing a safer access for the golf carts to get onto and through this site.

Mr. Pereira addressed Mr. Grey's comments about the landscaping plan, and indicated that they will absolutely provide a substitute for the barberry and that is no problem.

Chair Parkins stated that had there been any extreme changes to the drawings she would have actually suggested keeping the public hearing open to allow the gentleman, Mr. Miller an opportunity to review the drawings prior to closing the public hearing. However, since they were minor changes she does not think that will be necessary as long as there is agreement among the other Commission members.

Comm. Flannery asked how big the bio-filter because he did not address that concern.

Mr. Pereira responded that there is only one bio-filter but if they look at the site plan, it runs along the entire east side of the property and it is 5 feet wide. He commented that there is a dimension, if they look at the full access driveway, they've got a 15 foot wide driveway and directly to the east of that they show the dimension of 5 foot. He added that it is a 5 foot wide x 300 foot long bio-filter and then downstream of that they have the new floodplain bio-retention pump which will provide additional treatment.

Comm. Flannery asked if that was approved by Wetlands.

Chair Parkins responded yes.

Comm. Flannery asked if they would know if it was an adequate size.

Mr. Pereira responded yes, they've already approved it.

Chair Parkins offered to share her recent copy of the proposed drawings with Mr. Miller if he would like them.

Mr. Miller responded yes and thanked the Chair.

Chair Parkins indicated that they would most likely be closing the public hearing but he's welcome to have them. She asked if there were any further questions or comments. With nothing further, she requested a motion to close this public hearing.

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to close the public hearing for Application #12-10.

5 minute recess called by the Chair at 8:20 p.m.

Chair Parkins resumed the meeting at 8:25 p.m. with Old Business – Applications for Certificate of Zoning Compliance.

OLD BUSINESS

APPLICATIONS OF CERTIFICATE OF ZONING COMPLIANCE

SEPARATE #6304 – TOM D'ADDARIO, 42 CANFIELD DRIVE, RETAINING WALL AND FILLING

Mr. Schultz stated that since the last meeting, Staff was directed to have the Applicant look at different possibilities including surfacing the wall. Also, the installation of climbing ivy or juniper plants. Staff also contacted the complainant to determine if there was a line of communication going on, which has occurred. He learned this morning that the Applicant, Mr. D'Addario is having Atty. Thomas address the Commission. He wanted to provide a little bit of background and stated that tonight they will be hearing from both sides. Staff is recommending that the Commission take some type of action tonight.

Atty. Dominick Thomas, Cohen & Thomas, 351 Main Street, Derby, CT addressed the Commission on behalf of Thomas D'Addario. Atty. Thomas indicated that his client has already embarked on an effort to address certain issues. When he first

contacted him regarding this, his initial reaction as an attorney of the law is that, in Zoning Law, there is really no ability for a Commission – well, aesthetics is not something that is covered by 8-2. However, this Commission deals with aesthetics all the time when they deal with zone changes and PDD's. In this town, they don't deal with Village Districts or Historic Districts which also create aesthetics issues.

Atty. Thomas stated that before his involvement, he understands that they were submitted a report on the engineering aspect which is a public safety concern with any wall that is constructed. The Engineering Department has to make sure that the wall is constructed appropriately. At the present time, he went out to the site and saw quite a few trees. Mr. D'Addario spent several thousands of dollars planting trees along this wall.

Atty. Thomas indicated that after he became involved, they looked at various other options. He stated that the other options and the options of a stone facing is preposterously expensive at \$40,000 to \$50,000. He has already spent \$6,000 on tree planting. Atty. Thomas stated that he read the minutes of the last meeting in which various suggestions were made and went out to get other estimates to address the issues, regardless of anything legal, to see what they got.

Atty. Thomas indicated that it is the responsibility of his client to satisfy the Commission by taking action. He looked at the site and basically the proposal is – as you are standing looking up at the wall, there is an area to the left where the trees stop. There can be other trees planted and the best thing that he can provide about the permanent look on it would be the ivy growing beyond that. Mr. D'Addario went out and priced it. Obviously, the least expensive would be to get little sprigs of ivy and let it grow out. Again, the most expensive would be to get long strands of ivy at 4 – 6 feet which come in large containers that have to be specially ordered. However, he was able to go out and reasonably get an estimate for 2 – 3 foot ivy that could be transferred to the top of the wall and would eventually create a complete blockage of the wall given the growth of the trees.

Atty. Thomas stated that they also checked with a landscaper to address the concerns of one of the Commissioners in regard to the types of plantings. The landscape architect looked at it and basically indicated that when the trees grow together and hedge, there may be some trees that may die; however, basically, the hedge would be quite substantial given the amount of trees out there. Atty. Thomas stated that he found out something about hemlocks from a comment made by this landscape architect - that for the last 20 years people have predicted that they were going to die. Atty. Thomas stated that in his backyard when he moved in five years, there was a big hedge of hemlocks that have grown another 5 feet and he's given up trying to trim it. The hedge is about 20 feet tall with no signs of dying.

Comm. Flannery stated that she has had plenty of dead hemlocks.

Atty. Thomas responded that he has plenty of live ones. The trees that are planted there are sufficient and when the ivy is planted there... He commented that another option would be to go with a fence but the fence would require maintenance and the stucco would require maintenance. There would be concern that the stucco would peel and things of that nature. These are things that are in the same, similar price range.

Atty. Thomas responded that it is not his client's decision in this or his client's intention in this to rely upon the law for anything. He wants to resolve this to the satisfaction of the Commission. He's already taken steps and spent \$6,000 for planting trees. This will be a similar cost to take the 2-3 foot ivy plantings. He is looking at the estimates that he received for Baltic Ivy that he'd be able to plant along that area of the wall. If it is planted behind the wall, it would be enough to hang over the wall and that area of the wall is visible to the rear side of the property and up to the point where the trees are and then cover the whole wall. As the wall goes along it blends into the grade and there is an area where the trees were planted that would cover the entire wall.

Atty. Thomas indicated that was their solution after looking at all of the various estimates.

Chair Parkins asked if the Baltic Ivy was the solution that they were recommending.

Atty. Thomas responded yes, that would be best solution and indicated that stucco was a similar thing. However, in talking to the individual, the concern with the stucco there would be peeling and it has more of a maintenance thing.

Atty. Thomas stated that, again, the whole point of the issues with respect to aesthetics is that and he quoted Justice Hugo Black "obscurity is in the eye of the beholder." He stated that it was in the Supreme Court (inaudible) case and aesthetics is in the eye of the beholder is basically (inaudible)... However, in looking at this, what they tried to discuss and go into was that which would provide the longest, permanent type of cover that would require the least amount of maintenance. In meeting with Mr. Schultz today, he looked at a photograph of ivy. He indicated that he has it behind his office where it covers about 2/3 wall that is behind his Old Bank building. The ivy covers it and it never needs to be maintained. It just stays there and if it gets too long it can be trimmed.

Comm. Flannery asked who was going to be trimming the bottom.

Atty. Thomas responded that there is no need to trim the bottom.

Comm. Flannery indicated that she had a house with ivy growing over her wall and it would go onto the street and everything. You really had to trim it.

Atty. Thomas responded that this is in the back of the building...

Comm. McGorty added that it's in the woods, if it chooses to go wild it can because that's what they want.

Atty. Thomas stated that it is a wooded area back there.

Comm. Flannery indicated that she was just saying that it does get out of hand.

Atty. Thomas responded yes, it would be growing into what amounts to be an evergreen hedge.

Chair Parkins asked if they would be proposing just the top layer along the fence line.

Atty. Thomas responded yes, planted on the top behind the wall to cascade over and grows down from there. He believes from his eye, and he clarified that he was not a professional, but down at the end where the wall blends into the grade, they could plant some more trees there and it would cover it. They wouldn't even need the ivy there because the trees would cover it. He added that there was no problem with planting ivy either though. The photograph doesn't go down that far, but it looks like it blends into the grade.

Mr. Panico asked if he was talking about addressing the portion of the wall that is not shielded by the evergreens.

Chair Parkins responded yes, and pointed out the section in the photographs.

Mr. Panico asked Rick Schultz if Baltic Ivy was the plant that used at the Homestead Inn.

Mr. Schultz responded no, it was Procumbent Juniper.

Mr. Panico commented that is about as long as it will grow.

Atty. Thomas indicated that was one of the requests made to the landscaper about what had been used at Homestead.

Mr. Panico commented that the Baltic Ivy would grow much faster than the (inaudible)...

Comm. Matto indicated that there are going to be other things that are going to grow there, not just the ivy. There is going to be other things growing such as poison ivy, all types of vines, invasive and non-invasive plants. She added that they aren't going to be the ones looking at it all these plants - it is going to be looked at by the neighbors.

Comm. McGorty asked if it was in the woods.

Mr. Panico responded yes, it's in the woods.

Chair Parkins responded yes, it is in the woods of this property and set back (inaudible)...

Comm. Matto commented that it is pretty well (inaudible)...

Mr. Panico stated that ultimately they would get vines growing in and (inaudible)...

Chair Parkins indicated that she understands that the complain tent would like to speak.

End of Tape 1B, 8:39 p.m.

Jessica Krentzman and Robert Rut, 52 September Lane, Shelton, CT addressed the Commission.

Ms. Krentzman indicated that she and her husband, Robert Rut are the property owners of 52 September Lane. She presented packets of exhibits to each of the Commissioners for their review.

Ms. Krentzman indicated that she was present tonight because she and her husband feel very strongly that the retaining wall that was constructed by the Applicant, Mr. D'Addario, violates Section 24.4.9 of the Shelton Zoning Regulations. It does not, in any way, shape or form, harmonize with the surrounding neighborhood, as required by that Section.

Ms. Krentzman stated that they also feel very strongly that the wall, as constructed, has decreased their property value and has also reduced their ability to fully enjoy their property. She indicated that at the last meeting they requested, and they continue to request, some more permanent solution than the plantings and ivy on this wall. From their viewpoint those are really temporary fixes to what is a permanent problem created by the Applicant. Therefore, she requested some kind of cover for the wall in which the structure of the wall be faced with some kind of stone, natural stone, or natural-looking stone.

Ms. Krentzman referenced the Exhibit #1 in the packet that she provided for the Commissioners and explained that it was a zoning map that shows the location of their property on 52 September Lane in relation to the Applicant's property on 42 Canfield Drive.

She indicated that Exhibit #2 was a photograph taken from her back deck which is their primary entertainment space outside. As they can see in the distance, despite the fact that this wall is clearly on the Applicant's property, it is quite high. The elevation of the Applicant's property is significantly higher than their property. The entire wall can be seen from their back deck as well as from the rest of the back of their home. From their perspective and because of the layout of his property versus their property, the wall looks to be 15 to 20 feet high.

Ms. Krentzman stated that it is a 60 foot long wall and it is created of massive, gray cinderblocks that everyone, not herself, seems to be referring to as "mafia blocks." She indicated that the mafia blocks are 1.5 feet high and about 3 ½ feet long. At the highest point, the wall is constructed of four mafia blocks stacked on top of one another. She reiterated that from their perspective, the way that the wall is built, it is on top of 6-8 foot steep incline of dirt and rubble. However, from their perspective it looks to be about 20 feet high.

Ms. Krentzman indicated that at the top of this wall, the Applicant has put a 4 foot tall black chain link fence. On his side of the black chain link fence, he has put large evergreen trees. She thinks that one of the most important things in thinking about this wall is the fact that the Applicant, Mr. D'Addario does not see one inch of this wall from his property. They see it and potentially one other neighbor sees it and that's it. A huge length of this wall is visible from her backyard.

Ms. Krentzman stated that Exhibit #3 is some additional photos of the wall, both pre- and post- of the trees that Mr. D'Addario has planted. She commented that she thinks that it is important to look at it both ways because they are very concerned that the trees here are not a permanent solution. In 3 – 5 years if the trees are not maintained, if they die, or if Mr. D'Addario moves and new owners don't care for the trees, then they are going to be stuck with the wall that is there.

Ms. Krentzman referenced the Exhibit in the packet with a copy of the Zoning Regulation Section 29.4.9 and it specifically states that *"walls exceeding 4 feet high may be allowed subject to the approval of an Application for Certificate of Zoning Compliance by the Planning and Zoning Commission."* She added that they know that Mr. D'Addario did not get such a Certificate and he did not file for a permit here. She read that *"The required application shall be transmitted to the City Engineer and Building Official for review and report...In reviewing the design of the wall, the Commission may require the exterior materials and design treatment of the portions which are visible from any street or any other lot (she added that would be their lot) to be consistent with and to harmonize with the surrounding neighborhood."*

Ms. Krentzman indicated that not only did Mr. D'Addario fail to make the application he was required to make but the design and construction of the retaining wall built by him is not in any way consistent or in harmony with the neighborhood in which they live. She stated that their neighborhood is loaded with stone walls as are many of the neighborhoods in Shelton. She added that her own backyard has a beautiful stone wall which is one of the reasons that she liked the house so much when they purchased it.

Ms. Krentzman stated that in Exhibit #5 she has included 5 or 6 examples photos of stone walls in their neighborhood which include both free-standing walls and retaining walls. As they can see all of these stone walls are somewhat different but they are all attractive and made of natural or natural-looking materials.

Ms. Krentzman indicated that Exhibit #6 includes pictures of the 38 Canfield Drive property which is right next to the Applicant's property. At the front of this property there is an attractive, stacked, natural stone wall. Additionally, the second photo shows the back of this property and how that attractive stone wall turns into this ugly thing which he built. She reiterated that was the portion of the wall that is facing them.

Ms. Krentzman stated that the pictures of neighborhood and the regulation support their position that the wall constructed is not consistent or in harmony with the neighborhood and is not consistent with Section 29.4.9.

Ms. Krentzman continued that Exhibit #7 includes some examples of businesses on Bridgeport Avenue that have retaining walls. It is a hilly area so a number of them do have retaining walls. All the businesses, some of them new, have retaining walls and even in this Business District, all of the retaining walls are quite attractive and none of them look like the one built behind her home. Even the retaining wall that is at Mr. D'Addario's car dealership in the front of his business is an attractive stone retaining wall. It is made of natural stone and is graded nicely back to the street level as opposed to a straight down cliff which he created behind her home.

Ms. Krentzman stated that she did not have a picture of it but one of the only walls that they were able to find or think of in Shelton that is built out of these types of concrete blocks is located at the dump. She added that is what they are looking at in their backyard.

Ms. Krentzman commented that one of the things that came up at the last meeting was why they waited so long and didn't come to the Commission sooner to request some relief. As they stated, unfortunately, they mistakenly assumed that the wall was not completed. It was built in November when it began getting very cold and based upon the sheer look of the wall they assumed that it could not be completed. Therefore, they did not raise any issue at that time. She clearly noted that if they had complained at that time, the wall would have already been done. She stated that was because they didn't have any issue with the fact that trees were being cut down, fill was being brought in, trucks drove by, people were working there or even potentially that a wall was being constructed. It was only when they came home from work one evening and the wall was just there that they even had any concern at all. Therefore, even if they had complained in November, the wall would have been done at that time.

Ms. Krentzman indicated that when she contacted the P&Z in May, they were essentially told that nothing was going to be done or only minor adjustments were going to be made. She was told two things. She was told that the Applicant had not filed for a permit or gotten permission for this wall. She was also told that the materials used, referred to as "mafia blocks", were not allowed. She was told recently that the Commission required property owners on Soundview Avenue to take down a wall that was constructed of this type of material. Based upon that they felt it was clear that their best option was to move forward with a complaint.

Ms. Krentzman stated that aside from why they waited to complain, she thinks that the important point here is to focus on why they are here – which is the fact that Mr. D'Addario failed to do what he was supposed to do and get a permit. If he had done so, she assumes that the P&Z Commission would have required him to comply with Section 24.4.9, in other words, that this wall would have been required to harmonize with the neighborhood or Mr. D'Addario would have had to file for some kind of a variance at the time and there would have been a public hearing. If there had been a public hearing, she and other neighbors would have had an opportunity to respond before the wall was built. Unfortunately, they didn't have that opportunity.

Ms. Krentzman reiterated that it was the Applicant's failure really to apply for a permit with the Zoning Commission that puts them in this position. They feel that the Applicant should bear the full burden of correcting the situation that he has created. Their primary concern is the use and enjoyment of their property and of their property value – both now and long term.

Ms. Krentzman stated that as many people, they are struggling with their property value. They purchased their home in 2007. The last time that it was appraised it was worth significantly less than what they purchased it for so they really have a vested interest in protecting the value of their property. The wall that was constructed by the Applicant here is industrial and it looks as though they have an industrial business behind their home as opposed to a residence. She added that numerous people have visited their home since the wall has been constructed have pointed that out. It has substantially diminished the view from their entire backyard. Additionally, the entire back of their house faces this wall including their dining room with a full wall of windows at the back, the French doors, the deck, the kitchen and a large sunroom with windows in the back.

Ms. Krentzman commented about the photo in the packet which depicts a view from their deck and even though there is some green covering the wall, none of it will be there come October and November. She added that from October through April, they'll be staring completely at that wall.

Ms. Krentzman indicated that at the last meeting they discussed potentially covering this wall so they actually made some calls to stone masons as well. She stated that she was able to get one estimate for potentially covering this wall because she didn't have a lot of time. She indicated that estimate was attached as Exhibit #10. She noted that it was 500 square feet or approximately 500 square feet of wall but that estimate is about \$15,000. Again, without a lot of time to shop around and get additional quotes, she thinks that it is fair to say that if they did shop around they could probably figure out some additional options or other pricing.

Ms. Krentzman indicated that the mason that they spoke to is Michael Anthony from Michael Anthony & Sons Masonry which is located in Shelton. Mr. Anthony made it very clear that covering the wall with some type of a natural stone or natural-looking stone is certainly feasible.

Ms. Krentzman stated that she has also attached as Exhibit #8, a letter from a realtor in Shelton, Sandy Faulkner at Carey & Guerrarra. Ms. Faulkner came out to their property and took a look at the property and the wall. She felt that the wall may certainly have a negative impact on their property values.

Ms. Krentzman commented that they have to worry about the “now.” There was a lot of talk about things growing and potentially covering this wall over time, but they are concerned about what is going to happen long-term. She questioned whether these trees were going to live and who is going to maintain them - but frankly, they may have to sell their property next year. They can’t determine what is going to happen. Ms. Krentzman stated that she finds it hard to believe that they just have to suffer all the risk here in that they had nothing to do with the construction of this wall.

Ms. Krentzman concluded that last attachment is some pictures of the Home Depot in Monroe, CT. This is a wall that was actually made out of that same concrete block as the one Mr. D’Addario built and it has been covered with stone facing. Unfortunately, she doesn’t have a before and after photo of that wall but it does depict the stone facing over the “mafia block.” Therefore, it shows that it is feasible to do something to make it harmonize and look more natural.

Comm. Flannery asked for clarification of Ms. Krentzman’s address.

Ms. Krentzman responded that it was 52 September Lane. In closing, she asked that the Commission require the Applicant to correct the unsightly wall that he has created and that they are forced to look at from the entire back of their property. She indicated that they don’t feel that they should be punished or lose their property value due to his failure to get the required permits or his failure to construct a wall in accordance with Shelton’s Zoning Regulations. While the trees and the ivy may be a temporary solution here, this is a massive wall and it is a permanent problem that they feel the Applicant should be required to correct in a way that is consistent and harmonizes with the rest of the neighborhood. She reiterated that they are, therefore, requesting some type of facing for this wall. Ms. Krentzman thanked the Commission.

Chair Parkins thanked Ms. Krentzman. She commented that it is very unfortunate when applicants don’t come in and follow the process. She indicated that she thinks that Mr. D’Addario is honest in saying that he didn’t know that he had to have a permit. Chair Parkins stated that they are not a Commission that is here to punish anyone. They aren’t trying to punish the applicant and they aren’t trying to punish the landowners.

Chair Parkins indicated that Ms. Krentzman presented a lot of information and some of it – well, some of the photos show store frontage and road frontage and those locations are going to have a much nicer wall than if you are putting something in your backyard where it is covered completely by woods and faces somebody else’s backyard. She added that she disagrees a little bit about the statement from the real estate agent because for one thing the trees that were planted are not going to be shedding their leaves. She stated that she doesn’t think that the coverage is going to be less in the winter than it is currently. Chair Parkins commented that, then again, she’s not a real estate agent so she isn’t going to debate her correspondence.

Mr. Panico noted that the letter makes prohibitive statements such as “it may...”

Chair Parkins agreed and added that real estate isn’t her area of expertise by any means. She stated that she was a little bit curious about the estimate which Ms. Krentzman received from Michael Anthony & Sons Masonry for \$15,000. This estimate seems to be substantially lower than the Applicant’s \$40,000 estimate. She added that she really didn’t know how to address that – she thinks that \$15,000...She is thinking back to if the

Applicant had come before the Commission to construct this wall and told them that he would be using mafia blocks. She said that the Commission probably would have said no, let's use something nicer and it might have cost him \$30,000 to put it in with whatever other material had been selected.

Chair Parkins reiterated that they aren't trying to punish Mr. D'Addario. They realize he has been very cooperative with this. He's been trying to find measures to address it. She indicated that \$40,000 is an excessive punishment to make him correct this but \$15,000 might not be so much.

Atty. Thomas responded that \$15,000 would make it financially feasible for him to challenge the regulation. They presented their complaint but he was trying to rebuff it. Atty. Thomas indicated that the language is very clear – if they would like to write it down – it is Section 4-48 of Fuller *“Zoning regulations cannot be based on aesthetics since the enabling Statute 8-2 General Statutes does not refer to aesthetics as a proper consideration for zoning unlike it does in other states.”* The next paragraph reads *“The Connecticut decisions presently allow aesthetics to be considered in two situations – in a historical preservation context or statute provides for it.”*

Atty. Thomas stated that in this case, the regulation that they have 24.4.9 - until it gets to the last sentence addresses the safety issue which is a concern to 8-2. Any time anybody puts a retaining wall over four feet, and it says it in here, it has to go to two other entities besides P&Z. It goes to the Engineer to see whether it needs to be an engineered wall and goes to the Building Department to see if it complies with the appropriate codes. Those are the two things and that is what Mr. D'Addario did not do.

Atty. Thomas indicated that it is very difficult when people are operating on their property. If a person doesn't have a relationship with the lawyer living next door or golf with a lawyer and bring it up, then people don't realize that if they want to build a wall on their property that they have to go and get a permit. He added that it is just like how people don't realize that to cut trees down – well, they can do it – anybody can cut trees down on their property and it is allowed – unless those trees are in an upland review area or a wetland.

Comm. Matto stated that she would like to make a comment. She commented that she finds it really hard to believe that somebody would put up a wall like that and not realize that it would create a problem. She finds that completely unbelievable.

Atty. Thomas responded that at this point he's spent about \$6,000 to address the concerns when they were first brought up.

Comm. Matto stated that secondly, she doesn't believe that those trees are going to work in the long run. Based on her experience with landscaping and plants, which is fairly extensive, she empathizes with the homeowner in that regard because she doesn't think that's going to be a solution. There are wooded, deciduous trees with a little forest there and those evergreens aren't going to thrive in that setting. She stated that you can't have evergreens under forage deciduous trees – they won't do well even though in the summer it is a little bit screened and it doesn't look that bad with all that vegetation. But when those deciduous trees go back that wall is going to show. Comm. Matto stated that the wall is an eyesore and she can't believe that somebody would put that up there and not realize there would be a problem.

Atty. Thomas responded that his client...the Commission doesn't want (inaudible)...

Comm. Matto asked if he was saying that this Commission doesn't have any say about the aesthetics of any wall that is put up.

Comm. Flannery added that it doesn't comply with the rest of the neighborhood.

Atty. Thomas indicated that there are ways to do it when you approve a subdivision, when the underbelly of the developer is the most vulnerable. At that time, you simply

say to the developer, that as part of your subdivision approval, you would like restrictive coverings. He added that most of them are addressed that way.

Atty. Thomas stated that his client is also prepared, if they want a vinyl fence instead of the ivy, then he'll put a green vinyl fence along it. He added that he thinks (inaudible...)

Comm. Flannery stated that it will fall apart in five years.

Atty. Thomas responded that is why the ivy is a much better solution but he is willing to put up a vinyl fence but not stone facing the back wall.

Chair Parkins commented that she personally doesn't think - her concern is that this estimate is just providing and saying that it can be done cheaply and that this individual would go out there and the thing would end up costing \$40,000. It has certainly happened with these estimates. She personally doesn't think that \$15,000 is a lot to spend to cover up this mistake or error in judgment, or whatever it may be. Chair Parkins reiterated that they are not a court and they aren't here to punish anybody.

Atty. Thomas responded that by the time he is done, just so that they understand, by the time he's done with the ivy or the fencing, it will be into five figures - over \$10,000. He has already spent (inaudible)...

Comm. Harger stated that was not something that was their (inaudible)...

Atty. Thomas responded that he understands that.

Chair Parkins stated that the precedent that they are setting is what is bothering her the most. If they just say OK - then they are going to have everybody in town putting up concrete Jersey barriers to build walls and they will have set a precedent here, Atty. Thomas and that is what she is struggling with. It is not her intention to punish Mr. D'Addario.

Atty. Thomas responded that he understands the issue which is why their position is not to challenge anything. They are prepared to take steps which will create...

Chair Parkins stated that the problem is that there is no recourse after the ivy is planted. That's it - it is done - the ivy is planted and if it doesn't work, it's (inaudible)...

Atty. Thomas responded that it is one of the reasons why the law is the way it is. Because aesthetics...

Comm. Flannery stated that it does not comply with the neighborhood - it complies with the dump.

Chair Parkins commented that there are also a couple at Homestead Suites that have it as well. That was not a fair statement for the complainant to have made either because it does indeed exist on Bridgeport Avenue at Homestead Suites, it is the same type of wall with the ivy plants.

Comm. Matto asked if they had the authority to require that this wall be consistent with the neighborhood. Atty. Thomas is saying that they don't.

Mr. Panico responded that he doesn't know - that's debatable.

Chair Parkins agreed that is the real question - it is debatable. She is struggling with that and she added that she's not an attorney.

Comm. McGorty commented that according to this amendment of the Zoning Regulations it doesn't, but he asked if it would hold up in a court of law because that's the point.

Atty. Thomas responded that they are interested in that – they are interested in making a proposal to get this resolved. They are interested in putting in a fence, they are interested in putting up ivy, whatever it is that is reasonable... (inaudible, multiple conversations...)

Comm. Flannery asked if they could table this until they speak to Corporation Counsel.

Chair Parkins responded no, what is going to happen is that they are going to make a decision. The Applicant has a right to challenge it in court. They can say that they think he should spend \$15,000 to put a facing on the wall and if he takes it to court then the judge can make the decision if the Commission has the authority to demand that or not. The Applicant certainly has the right to do that.

Comm. Pogoda asked Atty. Thomas if he was saying that he wants to put a vinyl fence from at least the base, close to 10 feet high to cover up that wall – because they can't put it in front of the trees. He's been out there and ...

Atty. Thomas responded that yes, they'd have to put it behind the trees.

Comm. Pogoda commented that it would be between the trees and the wall. He commented that he's seen what is there – he's not a fence installer – but he's even surprised that they got those trees into the dirt that is there. They put enough dirt there for the ball of the tree there but the rest of it is stone. He reiterated that he wasn't the installer of that fence but ...

Atty. Thomas responded that a fence installer looked at it and said that it could be done. The point is that he believes that they live in the Valley and there are a lot of ivy-covered walls in the Valley. He commented that he believes it is the possibly the lowest maintenance issue because even if it dies, ivy just grows again. He has seen it happen for years behind his building.

Comm. Pogoda stated OK, he agrees that he's seen ivy walls to but what happens if this is the last recourse, the ivy dies, doesn't get replanted, the wall goes back to its original state and she can't come back.

Chair Parkins commented that they can't keep going to these hypothetical situations just like they can't do a hypothetical (inaudible)...

Mr. Panico stated that there could also be 25 inches of rain and the wall could fall down...

Atty. Thomas agreed and stated that the facing on the wall with stone can be done defectively, can be affected by bad weather and break. He added that the vinyl fence could deteriorate, stucco could fall over – they can take whatever covering they want and create a situation where it is not going to work into the future. Atty. Thomas repeated that is why aesthetics isn't – engineering is the issue – in other words - as an issue in the regulations.

Atty. Thomas commented that what they are trying to do is make a proposal based on all the research that they've done to provide the best solution. He stated that with the trees, yes, there is a canopy there but the person who planted them looked at it says that the trees will survive. The ivy can grow down just like it did at Homestead Suites and this ivy is a faster growing type.

Comm. Pogoda asked if the person who said that would sign a piece of paper stating that they would grow and they will not die in a year, two years, five years...

Atty. Thomas responded that he was sure that they'd get the one-year warranty.

Comm. Pogoda stated that a one-year warranty is no good. He asked what happens if it dies in 1 ½ years...

Atty. Thomas responded that he will certainly check with the individual that was contacted to determine whether or not he can extend the warranty.

Mr. Panico commented that he would imagine that, if they could get a two-year warranty that would be (inaudible)...

Chair Parkins stated that they could go around with these hypothetical situations all night long. She indicated that she would like to ask for a motion and see if it passes. She stated that the motion would be the approval of the Application for Certificate of Zoning Compliance #6304 subject to the following: a report from the City Engineer regarding the safety of the wall (Mr. Schultz added that they already have that report), report from the Building Official, installation of a stone veneer to the concrete wall not to exceed \$15,000 and landscaping material shall be guaranteed for one year from the date of its installation.

Mr. Panico asked if they have the stone facing, would they have the ivy on top of it.

Chair Parkins responded no, they are not requesting the ivy.

Mr. Panico asked if they wanted a guarantee on the survival of the trees that have already been planted there.

Chair Parkins responded yes, for one year which is their standard.

Comm. McGorty commented that if they are going to get the stone facing then they could get rid of it all or care less...

Chair Parkins stated that this estimate is for 500 square feet but she doesn't believe that is the whole wall.

Comm. Pogoda stated that 500 square feet is all that they want, then it is all they're going to give.

Chair Parkins commented that hopefully (inaudible)...

Jessica Krentzman, 52 September Lane, Shelton, CT addressed the Commission.

Ms. Krentzman told the Chair that \$15,000 was the only estimate that they were able to get in the time frame that they had so she doesn't know that it makes sense to say only \$15,000. She isn't suggesting that it be way beyond that but perhaps they could have it be in a dollar range or something.

Chair Parkins responded that her recommendation would be to say Not To Exceed \$15,000.

Mr. Panico stated that he has a lot of reservations about sticking something masonry up against those blocks.

Comm. Pogoda agreed.

Mr. Panico added that he did not think it was a lasting permanent solution. After years of weathering and if water gets behind it and water pops a layer of stone off of it then they'll have blobs of stone missing. It is going to look uglier than it looks today.

Comm. Matto stated that she doesn't think the plantings are going to work. She added that people do stone face walls – it's a common thing.

Comm. Flannery asked if they cap the tops of the walls so that (inaudible)...

Chair Parkins commented that it is certainly possible that this could be taken to court. This is the best they can do with the situation that they have. She added that personally she did not think the motion would pass with just the ivy plantings. She could be mistaken but...She asked if someone could make that motion.

Comm. Harger stated that she would make that motion.

Comm. Flannery asked to have the motion repeated.

Mr. Schultz read: Approval subject to 1) Report from City Engineer; 2) Report from Building Official; 3) Installation of stone veneer to the concrete wall not to exceed \$15,000; 4) all landscaping material installed shall be guaranteed for at least one year from the date of installation.

Chair Parkins commented that she wanted to make it clear that it does not include the installation of the ivy in addition to the stone veneer; it is place of it.

Comm. Pogoda seconded the motion.

On a motion made by Virginia Harger seconded by Anthony Pogoda, it was unanimously voted to approve Separate #6304 subject to the following: a report from the City Engineer regarding the safety of the wall; a report from the Building Official; installation of a stone veneer to the concrete wall not to exceed \$15,000; and landscaping material already installed shall be guaranteed for one year from the date of its installation.

SEPARATE #6302 – MARIA DE AGOILA, 522 SHELTON AVENUE, WALK-UP WINDOW

Bud Halco, 522 Shelton Avenue, Shelton, CT addressed the Commission. Mr. Halco indicated that he and his wife bought the Donut Hut. He added that it is one of the few places in the community that still make hand-cut donuts – nothing from a machine, so they keep the integrity there.

Chair Parkins asked if he made any that were fat-free.

Mr. Halco responded no and they wouldn't believe what it costs to make fat-free stuff. He commented that he realizes that this was tabled last month because they were unable to attend the meeting. They are right at the corner of 535 Shelton Avenue and what they would like to do is something for the summertime. They are a small business that they jumped into it last year because it is a family business. They thought they could teach their kids, it is a great community there, and they love the people.

Mr. Halco noted that 20 years ago this store was a Cumberland Farms so right at the corner there, coming back about 20 feet and facing Shelton Avenue, there were two windows there measuring about 66" x 87" They enclosed or capped these windows. But during the summer months they would like to put the ice cream there. They thought that if they had a walk-up window facing St. Lawrence Church, then they would have a little bit more visibility. Aesthetically, the building isn't pretty to begin with but they could do a nice job putting a slider in there to have access to people walking by that corner of the building.

Mr. Halco stated that he did not have a photo of the building but he brought the zoning map which shows their egress and everything.

Comm. Flannery asked if there was a sidewalk there.

Mr. Halco responded that they have an 8 foot sidewalk and they have bollards protecting the overhang so it is kind of a perfect scenario. He indicated that he took a picture of Swanky Frank's – if anyone is familiar with golfing, most of the time you go up to get your starting tee time at a sliding window so that you don't have to walk through the entire pro shop. For them, many of their customers are elderly and come in regularly. It is a nice warm community and they're proud to be a part of it. This is a small business that they jumped into so they want to take this chance.

Chair Parkins asked if there was a curb in front of that parking or is it level.

Mr. Halco responded that there is a sidewalk with a 6-inch curb and the sidewalk is 8 feet from the building all the way around.

Chair Parkins asked if he was saying that there's an 8 foot sidewalk from the building to the parking and bollards there.

Mr. Halco responded yes.

Chair Parkins asked what the purpose was of putting in this service window.

Mr. Halco responded that it would be to get a little more exposure because they want to start doing ice cream. They already have tables out there during the day so it kind of gives it a friendlier feeling.

Mr. Panico commented that the downside of that activity in the environment which he describes – is customers with ice cream cones and paper napkins. If the napkins fall, they don't pick it up, it blows into the Brook – it creates issues like that. He added that is why for many years this City would never allow any type of drive-through food operation because people pull up for their food, eat it in their car and throw the garbage out the window.

Mr. Halco responded yes, that's true.

Mr. Panico stated that anytime the Commission considers any outdoor eating and dining in conjunction with a restaurant, they usually have a defined area and require it to be walled in so that if there are things that fall on the ground and don't get picked up - they are trapped. He added that in this situation, he doesn't have the ability to trap that. He added that these are the concerns that they always have with something like that.

Mr. Halco responded yes, he understands that and agreed that in this day and age, unfortunately, people don't have the respect they used to have. He commented that he and his children see Wal-mart and McDonald's bags on the ground all the time.

Chair Parkins commented that her concern is more about the fact that he's got parking right there. If you have tables in the front here that is fine, they still have driveway that separates their sidewalk from the parking area. She commented that in the location where he wants the walk-up window, he's going to have people parked right up to that curb. She doesn't think that is going to work.

Mr. Panico asked if he was planning to have small tables out there.

Mr. Halco responded yes, they have them out there right now.

Mr. Panico asked if he said the sidewalk was 8 feet wide.

Mr. Halco responded yes, 8 feet wide.

Mr. Panico stated that there is probably about 6 feet of useable space and it's not a high activity area.

Chair Parkins indicated that if people park there, they are probably going to go in for service right there because this area is usually not used very often.

Comm. Pogoda commented that he didn't know anything about the tables. They never came in front of this Commission about the tables – that is another issue.

Mr. Halco responded that they are temporary.

Comm. Pogoda indicated that they are there and could prohibit people from walking.

Mr. Panico stated that the thing here is that it is a low activity area. There is no reason to walk past that area because there are no more stores down there to walk to or from.

Comm. Harger commented that he's talking about tables on the side of the building.

Mr. Halco responded that the tables that they have don't even encroach two feet.

Chair Parkins stated that she wasn't concerned with the tables and chairs, she was concerned with the window being there.

Mr. Panico asked how much of an investment he had to make to put the window in if the Commission gives him a temporary approval to try this out.

Mr. Halco responded that it would not be much at all because there is an existing window there right now. He added that it looks like at one time they just boxed it out.

Comm. Harger asked what was on the other side of those boxed in areas of their building.

Mr. Halco responded that inside their building it is the back work area right behind the counter. He measured and scaled it out and it works out – it is where they have a portable ice cream freezer right now, it's 10 feet, 16 feet and they have a 2'x6' counter going back and about 1 ½ is approximately where that window is located.

Comm. Harger commented that this isn't quite unlike a Friendly's Ice Cream shop set-up.

Chair Parkins stated that she has a suggestion that he be allowed to do this as a temporary, seasonal type of situation and see if it causes any issues.

Comm. Flannery agreed to make that motion.

Mr. Schultz stated that Staff would like to include those tables and chairs that are out there.

Comm. McGorty asked if anyone had seen them or if there were any issues with pedestrians getting by them.

Chair Parkins indicated that there is no question in the front (inaudible)...

Mr. Panico commented that keeping it up (inaudible)...

Comm. McGorty suggested it come up for review again (inaudible)

Chair Parkins asked if this would be a seasonal thing. She suggested May 1st to October 1st.

Other comments (inaudible...)

Mr. Halco indicated that these days he realizes that he has to do his own policing with the garbage.

On a motion made by Joan Flannery seconded by Virginia Harger, it was unanimously voted to approve Separate #6302 for temporary authorization to be reviewed again in November 2012 by the Commission for a seasonal walk-up window for the period of May 1st through October 1st.

SEPARATE #6331 – TEQUILA GRILL, 480 HOWE AVENUE, SIGN

Abel Piazza, the owner of Tequila Grill Restaurant, Naugatuck, CT addressed the Commission. Mr. Piazza stated that right now he is trying to open up a second location at 480 Howe Avenue and he's trying to apply to keep the awning but update it with a new view? of it with better quality material. Mr. Piazza stated that he knows that the

Commission updated their regulations for signage so he was wondering if they can (inaudible)...

Comm. Harger asked what the material was for this.

Comm. Flannery asked if there was a picture.

Mr. Schultz indicated that there are multiple renderings.

Mr. Piazza provided a sample of the material, in different colors, that he'd be using for the awning.

Comm. Harger commented that is the fabric (inaudible)...

Mr. Piazza responded that it isn't going to be anything compared to like what is there right now because there used to be a hot dog place in there. He stated that right next to him is H&R Block. They essentially have a (inaudible)... He is going to be using new material with it and he was wondering if he could actually do (inaudible)...

Comm. Harger asked if he was planning on doing something a little bit more streamlined, or tailored because this looks like it is a little bit closer to the building, not like the one next door which really overhangs.

Mr. Piazza responded that he is actually going to keep it the same but change the writing on it.

Comm. Harger asked if he knew how far out it would extend.

Mr. Piazza responded that it's two feet at the most – so less than two feet.

Comm. Harger commented that he didn't have any dimensions shown here. It's not an issue with the color. It looks a little bit more tailored than the one from the tax place which really sticks out. This looks better, like its a little bit closer to the building.

Mr. Panico asked what (inaudible)...

Chair Parkins stated that signage is supposed to say what the name of the place is – not what they have in there. She asked if this could be taken to the Downtown Subcommittee.

Comm. Harger responded yes.

Mr. Schultz asked the applicant if he was available on Friday morning at 8:30 a.m. for the Downtown Subcommittee Meeting across the street in the SEDC building.

Mr. Piazza responded OK and asked for directions.

Comm. Harger commented that he needs to provide some dimensions as to the depth of the awning for that meeting.

Mr. Piazza responded that he could provide that.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to table Separate #6331.

SEPARATE #6321 – THOMAS VLODEK, 401 BOOTH HILL ROAD, COVER FOR TEMP. STORAGE

Mr. Schultz showed the location map and indicated that this would be for a six month period. The temporary structure is 10 feet x 20 feet. It will be six months from the date of installation. They have to come back to the Commission for any extended period.

Mr. Panico asked where on the lot it would be located.

Mr. Schultz responded that it would be on the left hand side to the left of the house.

Mr. Panico asked if it would be in front of the house.

Mr. Schultz responded no, in the back.

Comm. Pogoda asked about the setback.

Mr. Schultz responded 10 feet.

Comm. Flannery asked why he was putting this up.

Mr. Schultz responded that it is a temporary shelter. The Commission can approve periods up to 6 months.

Comm. Matto asked why they want to have it.

Mr. Schultz responded that they have items that need to be covered. The Commission has in its regulations (inaudible)...

Comm. Flannery asked what would happen after the six month period.

Mr. Schultz responded that it would have to come down or they will have to come in and explain why they need an extension to the Commission's satisfaction.

Chair Parkins asked if the Zoning Enforcement Officer (inaudible)...

Mr. Schultz responded yes.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to approve Separate #6321 for a temporary cover for storage to be re-evaluated by the Commission after a six month period from date of installation.

SEPARATE #6347 – OAKDALE STORAGE, LLC, 472 – 486 RIVER ROAD, MODIFICATIONS TO ENTRANCE SIGN

Mr. Schultz indicated that they are going to eliminate the Oakdale Self Storage and replace it with five individual panel signs. They are going with the white on the top and the uniform red letters. The tenants want more exposure and the Oakdale Storage doesn't need it as much anymore. This is for multiple tenants and it is consistent.

Mr. Panico asked if each panel would be consistent.

Mr. Schultz responded yes, absolutely uniform – same colors and same font.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #6347 for signage modifications.

Chair Parkins stated that she wanted to move the Public Portion of the meeting up to right now. She asked for a motion to do that.

On a motion made by Joan Flannery seconded by Virginia Harger, it was unanimously voted to move the Public Portion of the meeting to be held before the remainder of Old Business and before any New Business on the agenda.

PUBLIC PORTION

Chair Parkins asked if there was anyone from the public wishing to address the Commission on any item not on the Agenda.

Irving Steiner, 23 Partridge Lane, Shelton, CT addressed the Commission. Mr. Steiner referenced the agenda from June 13th agenda item pertaining to an Informal Discussion: Dominick Thomas on behalf of Talbot & Partners, LLC for a proposed PDD to be located on property off of Bridgeport Avenue (Assessor's Map 19, Lot 56).

Mr. Steiner indicated that tells him absolutely nothing. He knows that a lawyer is going to speak for Talbot & Partners but he knows nothing else. He commented that he didn't understand why they would put a statement like that on the agenda because it is of no help to him or anybody else. Mr. Steiner indicated that later he found out this was for 200+ units and he had to work out where it was going to go. He added that it is basically an insult to the public when a statement like this is put on the agenda giving them no information. He stated that for someone working all day, trying to get information, they would have to be here before 5 p.m. to find that Map 19, Lot 56 to get an address. He indicated that he knows that this Board had much more information than that and could have put down more information to address what was going to be discussed. For instance, it says it is for a proposed PDD then it has to have some more definition to it. The information about off of Bridgeport Avenue doesn't help and the Assessor's Map Number doesn't either because that office is closed for by 5 p.m. so anyone working couldn't get that map location.

Mr. Steiner stated that is the only one here that Dominick Thomas had the privilege of (inaudible)... There was no street address provided and he was very upset about it so he wanted to make a point of it. Mr. Steiner stated that he can't talk about anything on the agenda but he can talk about past or future information. He stated that was his main point to complain about because he feels people deserve a little bit more information. He'd appreciate it if they could give a little more information.

Chair Parkins responded that she appreciates his comments. The applicant has not decided whether or not he is going to pursue this proposal. It was just an informal presentation to get a flavor from the Commission. There has been no further discussion on it. They just came in and showed the area and talked about what they were thinking about doing prior to putting any serious money behind development plans for it.

Mr. Steiner commented that he understands but he would have definitely come up here if he were able to glean a little bit more information out of that statement on the agenda.

Chair Parkins indicated that he had a reasonable request and an address probably wouldn't helped either so they could have put "the property behind Planet Fitness" or something like that. She stated that they will take his comments into consideration and asked if there was anyone else from the audience wishing to address the Commission. With no other public comments, she asked for a motion to close the Public Portion of the meeting.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to close the Public Portion of the meeting.

APPLICATION #12-01 RE-EXAMINATION OF ADOPTED RESOLUTION FOR CONSIDERING POSSIBLE MODIFICATION OF CONDITIONS OF APPROVAL AND EFFECTIVE DATE FOR THE FREE-STANDING AUTOMOBILE FUELING FACILITY AT THE SHELTON SQUARE SHOPPING CENTER, 900 BRIDGEPORT AVENUE (MAP 79, LOT 15).

Atty. Steven Bellis addressed the Commission. He stated that after a resolution is approved, typically with a PDD, he meets with Staff and goes over the Statement of Uses and Standards. Atty. Bellis commented that is what he did in this case and something appeared in their resolution of approval that wasn't discussed at any of their informal work sessions or at the public hearing. However, it made its way into the resolution which everyone voted on. He stated that he had no problem with that but once you adopt the resolution both Tony Panico and Rick Schultz thought he should come back to the Commission to give them a heads up instead of them just making the administrative changes to the Statement of Uses so that they know what he's doing.

Atty. Bellis referenced paragraph 5h in the proposed Statement of Uses that said an automobile refueling station with not less than one on site employee and including tractor trailer trucks... The resolution had something in there tying it to a tenant having not less than 65,000 square feet. He indicated that they wanted to make that 45,000 square feet. He added that Stop & Shop is the only tenant that has 45,000 square feet. There is no other tenant that would have 45,000 square feet.

Atty. Bellis indicated that the reason that he needs that change is because if Stop & Shop gets rid of their recycling area or goes to an open food market, then they may reduce their square footage size and be only 45,000 square feet.

Chair Parkins asked what their current square footage was.

Atty. Bellis stated that they were at 67,000.

Chair Parkins indicated that their concern with that was about the other side of the Plaza – if Bed, Bath & Beyond and the shoe store next to it were to become one store, then a gas facility could be put where the medical facility is now. She stated that was their concern.

Mr. Panico stated that he doesn't think 45,000 is a bad number. They wanted to put something in so they pulled a number out of the air that they knew they were in compliance with now. They never even thought about if they wanted to shrink the size of the supermarket somewhat. It wouldn't take long before they'd be in a non-conforming situation. He stated that perhaps a number like 45,000 would be a better number.

Atty. Bellis stated that the second part of that is in the same kind of vein to add the language "and/or operated by the owner or management of a shopping center." He commented that would tie in with their concerns about having an independent gas station there. It would have to be tied to the shopping center. He stated that he thinks that language should be added to (inaudible)... He thinks that those were the two clarifications.

Chair Parkins questioned the language that it would be operated the owner of the shopping center, not the owner of the store.

Atty. Bellis stated that it is operated by the owner or management of the shopping center – it is tied to the shopping center.

Chair Parkins indicated that if Stop & Shop were to move out and some other food store moved in that doesn't want a gas facility, then the owner of the shopping center can still manage it as a gas station.

Atty. Bellis responded yes, exactly and the reason for that is not that Stop & Shop – and he's not saying that Stop & Shop is not going to want to continue to have gas stations...

Chair Parkins commented that would be the case scenario though.

Atty. Bellis stated that it is for financing reasons. Bankers are questioning the underwriting.

Mr. Panico commented that it introduces some other issues that he needs to be aware of. If it is a situation where it is not a part of the supermarket or the major tenant that means that the gas station has to be a self-sufficient facility, lavatory facilities onsite...

Atty. Bellis responded no.

Mr. Panico asked OK, otherwise, how do you deal with it.

Atty. Bellis stated no, that they are tying it to the owner or the management of the shopping center.

Mr. Panico responded OK – Stop & Shop or whoever it is decides that they don't want to be in the gas business – so the owner or management of the shopping center says he'll carry it along as an independent operation because he has a responsibility and because it's his Shopping Center, etc. – or whatever. He asked how they go about handling some of the other things like sanitary facilities.

Atty. Bellis responded that it's not his (inaudible)...

Mr. Panico asked if he wanted to modify the design of the station to put in lavatories.

He responded to Mr. Panico that he's asking him tough hypotheticals.

Mr. Panico told Atty. Bellis that he is asking them hypothetical's also. If they were going to approve an independent gas station in that location, then they would take those things into consideration.

Chair Parkins added that it might not have been approved.

Comm. Pogoda agreed and stated that if it was tied to the Shopping Center, he wouldn't have approved it.

Atty. Bellis stated that they wanted it tied to the Shopping Center.

Comm. Pogoda responded that they wanted it tied to the store – to Stop & Shop, the anchor store, not to the Shopping Center.

Chair Parkins commented that was the purpose of putting that phrasing.

Atty. Bellis stated that he is just telling them what the problem is from a practical perspective, the banks have to loan money to build this gas station. He arbitrarily stated it might be \$1M. They are not going to loan \$1M to the owners if they know they can't get their money paid back in 10, 15 or 20 years.

Chair Parkins stated that it is Stop & Shop that is vesting in it.

Atty. Bellis responded that no, Stop & Shop is not (inaudible)...

Mr. Panico commented that he's not going to tell them how to run their financial business but if he was going to give them a loan for 20 years, he'd want to make sure that he at least guaranteed him a return for 20 years.

Atty. Bellis stated that he doesn't follow (inaudible)...

Mr. Panico stated that if you wanted to take the mortgage out of his bank, a 20-year mortgage, he'd want to know that you're going to be part of this entity for 20 years.

Atty. Bellis responded that is what the owner is doing. The owner of the Shopping Center is the one getting the financing for this. Stop & Shop runs it. He indicated that he would have told the Commission this during the public hearing, it is a ground lease. Stop & Shop doesn't own the land.

Chair Parkins stated that opens it up to individual operation aside from an anchor store.

Comm. Pogoda added that they would have never approved that.

Atty. Bellis stated that is why it has to have the 45,000 square feet.

Chair Parkins commented that he is saying "or" and that contradicts it.

Comm. Pogoda asked what would happen if another supermarket comes in there and says that they don't want to have a gas station but the owner says that he'll take it over. He

stated no – they want it tied to the supermarket. That is the way that he approved it – only on that condition. Not because, “well if Stop & Shop goes out, well then the owner of the Plaza is going to run it.”

Atty. Bellis doesn't want to portray that Stop & Shop is leaving. They've been here since 1970 something.

Chair Parkins stated that they aren't saying that but they are protecting themselves 20 years down the road.

Mr. Panico commented to Atty. Bellis that if you came in with a proposal to establish an independent gasoline refueling facility on that site, this Commission probably would have said no. But, you came in saying that a major tenant on the site wants to expand their operation because they have gas stations at all of their other stores and this Commission said there was validity to that.

Chair Parkins indicated that their drawings (inaudible)...

Mr. Panico stated that now you want to put that divide down there again and he thinks that the Commission is saying that they aren't happy with that. While they can understand that 65,000 is an arbitrary number, maybe 45,000 works just as well – that's one thing and it's easy to deal with - but suddenly differentiating between the nature of the operation is a whole new ball game.

Atty. Bellis stated that usually he doesn't get into the financing and all these types of issues. What got him on this one was that it was not something that was discussed as part of their application or in any of the forums. It was just in the resolution and he didn't have a chance to address it. He couldn't address any of the issues that they are raising.

Mr. Panico stated that from day one the representation was made that it was going to be a gas station associated with the supermarket. From day one that is what this Commission (inaudible)... it's what they adopted and they believed they were zoning for.

Comm. Matto stated that (inaudible)...

Atty. Bellis responded (inaudible)...

Comm. Pogoda commented that now he's saying something else (inaudible)...

Mr. Panico stated that if he wants to go back then, they'll have to go back to square one and do the process all over again and he doesn't know what the outcome will be.

Atty. Bellis stated that he doesn't know if their clear (inaudible)...He requested to have his client speak.

Paul DuMont, on behalf of Shelpet, LLC addressed the Commission. Mr. DuMont indicated that it was not their intention and it is not their intention – they are in the real estate business. They operate and manage different commercial ventures, some shopping centers and some commercial entities. They aren't in the gas station business. It isn't their objective to bring this application to this Commission for them to operate this. They thought it may give them comfort down the road should a change be made with Stop & Shop that would tie it to somebody who has a vested interest in managing and owning the shopping center next door. They would have a financial interest in keeping that a first class operation limited to the intent of what was applied for here.

Chair Parkins responded that by changing the wording, it opens the potential that if Stop & Shop were to move out, 10 years or 30 years down the road then that facility could be independent of Stop & Shop.

Mr. Panico added that in all fairness it is an entirely different zoning consideration that would require going back to square one.

Atty. Bellis stated that he says totally independent, he thought the way that he worded it (inaudible)...

Chair Parkins stated that (inaudible) ...he would own it but lease it. He's just said that he's not in the gas station business so he would lease it. It would become an independently run not from the anchor store.

Atty. Bellis responded that it is going to be leased out (inaudible)...

Mr. Panico added that it makes a sham of the 45,000 square feet. He asked why they should have any number in there at all.

Chair Parkins agreed because it wouldn't need to be tied to an anchor at all.

Mr. Panico stated that they would simply divest themselves of it and the owner takes it over, he runs the shopping center and (inaudible)...

Atty. Bellis commented that he doesn't know how he gets around the financing problem. If they step into the shoes of a bank, they are going to say "OK I've got a \$1M that I lent to these people and hypothetically, if Stop & Shop leaves town – then they've lost their zoning approval."

Comm. Matto stated that she thinks that they all kind of thought it was Stop & Shop's gas station.

Chair Parkins added that she'll be honest and say that if they came in independently and said that they wanted to put in a Mobil or Shell Station – then it wouldn't have happened.

Atty. Bellis responded that was not their intention.

Chair Parkins stated that she's sure it was not their intention but it opens up the potential for it to happen.

Atty. Bellis commented that is why he was trying to frame it in such a way that it's tied to the owner and/or the management – something that ties it to the shopping center.

Chair Parkins stated that it is automatically tied to the owner of the Shopping Center because he's leasing it to Stop & Shop.

Mr. DuMont stated that the owner of the ground where the filling station will be built – the ownership is in common with, but it is not the same entity as the shopping center.

Chair Parkins commented (inaudible)...

Comm. Harger asked if it was similar to how a (inaudible)...

Mr. DuMont commented that it is the same members and LLC basically.

Comm. McGorty stated that they are in common through investment and through the group, whatever the entity is.

Mr. DuMont responded yes.

Atty. Bellis stated that the issue is financing – it's not that Stop & Shop (inaudible)...they are not in the business but the banks are balking and saying that the way that this is approved...

Chair Parkins indicated that it changes the whole meaning of their approval.

Mr. Panico (inaudible, multiple conversations...)

Comm. Pogoda stated that they see his point, but he needs to see their point.

Atty. Bellis responded that he does see it.

Comm. Pogoda indicated that he knows that he does but they have to protect the City.

Atty. Bellis stated that he thinks that they are both saying the same thing although he may not have worded it correctly enough, articulated or phrased it to Rick.

Chair Parkins stated that one of the issues was (inaudible)...

Atty. Bellis indicated that he doesn't hear a lot of resistance about the 45,000 because it is a separate issue.

Chair Parkins responded no there is (audible)...

Atty. Bellis commented that it is the second part of the equation.

Comm. Pogoda stated yes, that's a problem.

Atty. Bellis stated that the second one he has to work with a little bit.

Chair Parkins commented that if financing is the problem (inaudible)...

Multiple conversations (inaudible)...

Mr. Panico stated that he's right and Rick and Tony had those same reservations about the issue that they are talking about tonight.

Atty. Bellis stated that he may have to go back and change those words but he wants to make it clear that no one is wiggling out of the approval. It is Stop & Shop that is running this. It's not the intent – it's how he is going to convince a banker and (inaudible)...

Chair Parkins indicated that he should tell them to take a look at the other Stop & Shop stores with gas facilities in Connecticut.

Atty. Bellis stated that he doesn't think that their approvals were tied the way they are.

Chair Parkins commented that Planning & Zoning is (inaudible)...

Atty. Bellis asked if he could get the green light on changing it to 45,000 square feet – that seemed to be the consensus.

Mr. Schultz added that they also need the new effective date.

Mr. Panico stated that the Commission needs to take an action to modify that stipulation and establish a new effective date because in view of this being brought up, they could not go ahead and publish it with the effective date because they couldn't go back and undo anything. If they are in fact going to make that modification, then make the modification and establish a new effective date. He indicated that anything else beyond that will have to evaluate what it is and how to process it.

Chair Parkins asked for a motion to make this modification to the Statement of Uses for a reduction to a 45,000 square foot facility that is associated with and to change the effective date.

On a motion made by Thomas McGorty seconded by Anthony Pogoda, it was voted (5-1) to modify the Statement of Uses for Application #12-01 to reflect a reduction to 45,000 square feet for the building associated with the proposed free standing automobile fueling facility at the Shelton Square Shopping Center and to change the effective date to July 27, 2010. Commissioner Flannery voted in opposition.

APPLICATION #12-11 COUNTRYSIDE VETERINARY HOSPITAL, LLC FOR SITE PLAN APPROVAL (ADDITIONS AND ALTERATIONS), 374 LEAVENWORTH ROAD (MAP 150, LOT 45), R-1A DISTRICT

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to table Application #12-11.

APPLICATION #12-12 BISHOP MANAGEMENT OF SHELTON FOR FINAL SITE DEVELOPMENT PLANS APPROVAL FOR PDD #72 (PHASE ONE: COMMERCIAL BUILDING), 762 RIVER ROAD (MAP 12, LOT 35).

Mr. Panico indicated that they are dealing with the development that was proposed on the River side of River Road, Planned Development District #72 was a development that envisioned two structures on it. One structure was the rehabilitation of the old industrial building that fronts on River Road proper and the second structure was the construction of a new 4-5 story office building closer to the River Road frontage. Tonight they are dealing with Phase 1 which is the rehabilitation of the existing industrial structure at 762 River Road.

Mr. Panico presented the Phase 1 drawings for Application #12-12 and read the draft Resolution for Application #12-12 Phase 1.

***See attached Planning & Zoning Resolution dated July 10, 2012 for Application #12-12 Bishop Management of Shelton for Final Site Development Plans Approval for PDD #72 for Phase One (Commercial Building), 762 Bridgeport Avenue, Shelton, CT.**

Comm. Flannery asked if they start Phase 2 after Phase 1 is done or will be people be in business while Phase 2 is being built.

Mr. Panico responded that they might. He doesn't know what their plans are. He's sure that part of it is going to depend upon how quickly they get through STC and how other things fall into place. They haven't precluded them from getting into Phase 2 in terms of submitting their final plans. At that time, they will know how the timing works out but it is conceivable that they could be working on Phase 2 before everything is finished on Phase 1.

Comm. Flannery asked if she could request one thing on Phase 2. She commented that she likes the new design and she's happy that they've changed it. The one thing that she brought up was to put shades in all of the windows.

Mr. Panico responded that would come up when they get the plans for Phase 2. They haven't addressed that yet because they aren't reviewing Phase 2 at this time. He added that the only reason the report addressed a little bit about the Phase 2 building modification and design because they wanted to make sure and encourage the continuity and styling and material between the two buildings. They've shown the Commission that is the direction that they are going in.

Comm. Harger asked if they had to be concerned about the fact when Phase 2 comes along there is no designated a separate construction entrance shown on these plans.

Mr. Panico referenced the site plan and responded that they've indicated anti-tracking apron along here. So, his presumption is that when they get into Phase 2 they are going to be coming and going along this and there will be a loss of some parking up there.

Comm. Harger commented that her concern was the heavy trucks going in.

Mr. Panico explained where trucks would be coming and added that there was really nothing they could do about it because it is a combined site.

With no further discussion, Chair Parkins asked for a motion and a roll call vote.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously roll call voted (6-0) to approve the resolution for Application #12-12 for Phase One.

Before moving to the next application, Chair Parkins expressed concern about the number of audience members still present so late in the meeting. She didn't want them to sit through anymore Old Business unnecessarily and she asked them what agenda items they were here to hear.

Some from the audience members indicated that they were there to hear about the Soundview Avenue applications.

Chair Parkins stated that typically for New Business applications that they are accepting for review there is not any discussion. She pointed out that tonight they would actually just be accepting Application 12-14, 12-15 and 12-16 for review but there would be no other discussion. She's apologized for not making that clear earlier. The accepted applications will appear on the next P&Z agenda.

Someone from the audience (unidentified) expressed concern about hearing that a bunch of houses were being put in their neighborhood.

Chair Parkins stated that if a plan for a subdivision is being submitted then they will accept that proposed application for review tonight. It will be discussed at the next P&Z meeting on August 14th. She stated that it is a subdivision approval, as-of-right, so there will be no public hearing required by this Applicant. However, occasionally if there are a lot of people that show up, the Commission will give them the consideration to speak. However, it is not a public hearing so comments will be taken into consideration but it's not something that they have to have a formal hearing on.

Comm. Flannery commented about people not being able to speak about items on the agenda.

Chair Parkins indicated that it is a special consideration and they can make that decision. They did that for the Richard Boulevard application when that subdivision was going in and so many people showed up.

Mr. Schultz requested that in the meantime, that the audience members please put their comments together in a written form and they can be submitted to the City Engineer if it is drainage related, wetlands related issues can go to Inland/Wetlands Dept and other zoning concerns which would be blasting, house orientation, driveway location could be directed to the proper departments. Mr. Schultz indicated that when they review the plans, they will see that they've done a lot of common driveways to eliminate street openings which is a good thing. He reiterated that if they put their thoughts together between now and August 14th, they can direct you to the right office.

A gentleman (unidentified) from the audience asked about property being given to the City and who would be taking care of it because he's taking care of it right now.

Mr. Schultz responded that any City of Shelton property is overseen by the Board of Aldermen and they can delegate it to the Conservation Commission.

Chair Parkins indicated that all of that will be discussed at the next meeting.

The audience member (unidentified) asked what to do about the letter he received from the developer.

Mr. Schultz stated that he needs to follow up at the next meeting. Tonight the application will be accepted and it begins a 65 day review period.

Mr. Panico added that they've already asked the applicant to go back and modify his layout a little bit.

Mr. Schultz indicated that plans are available for review Tuesday through Friday, 8:30 a.m. to 5:30 p.m. in the Planning & Zoning Office.

The audience member asked if it would remain R-1 zoning with no variances.

Mr. Schultz responded single family detached one acre zoning. Interior lots are 60,000. It is as-of-right, a conventional subdivision.

Other comments from audience members (inaudible)...

Chair Parkins apologized again that they sat through the entire meeting and informed them that the next meeting will be held on Tuesday, August 14th, 7 p.m. She commented that it will be their judgment call at that meeting if they will allow public comments.

APPLICATION #12-13 BISHOP MANAGEMENT OF SHELTON FOR FINAL SITE DEVELOPMENT PLANS APPROVAL FOR PDD #73 (COMMERCIAL BUILDING), 781 AND 785 RIVER ROAD (MAP 12, LOTS 29, 43)

Mr. Panico stated that this draft resolution deals with that one acre site directly across from the Sports Center. As they recall from their discussions at the PDD level, this is a very high parcel that needs to have a lot of rock excavation. There will be a big, healthy rock cut back end of the developed portion of the lot.

Mr. Panico read the resolution for Application #12-13 dated July 10, 2012, Bishop Management of Shelton for Final Site Development Plans Approval for PDD #73 (Commercial Building), 781 and 785 River Road, Shelton,CT.

He clarified that there were two number addresses is because this site is comprised of two individual parcels and each one had a number assigned to them.

***See attached Planning and Zoning Resolution for Application #12-13 dated July 10, 2012, Bishop Management of Shelton for Final Site Development Plans Approval for PDD #73 (Commercial Building), 781 and 785 River Road, Shelton,CT.**

Comm. Flannery asked about #2 and if it was tied into Stratford or Shelton.

Mr. Panico responded that it is part into the Stratford system - that same one that extends up to their other development. It is in there now (inaudible...) Whatever they have to do with the City of Stratford is their business.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was roll call voted (5-1) to approve Application #12-13. Commissioner Flannery voted in opposition.

PROPOSALS OF THE SHELTON PLANNING AND ZONING COMMISSION TO AMEND SECTION 23, SCHEDULE A, USE LINE 19 (HOSPITALS AND CONVALESCENT HOMES) AND THE RE-WRITE OF SECTION 32: EARTH MATERIALS REMOVAL.

Chair Parkins indicated that both of these public hearings were closed tonight. Mr. Schultz read the prepared resolutions.

***See attached Planning & Zoning Resolution effective July 27, 2012 to the Proposals of the Shelton P&Z Commission to amend Section 23, Schedule A, Use Line 19 (Hospitals and Convalescent Homes).**

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously roll call voted (6-0) to approve the Proposal of the Shelton Planning & Zoning Commission to amend Section 23, Schedule A, Use Line 19 (Hospitals and Convalescent Homes).

***See attached Planning & Zoning Resolution for Section 32: Excavation, Filling, Grading and Removal of Earth Materials effective July 27, 2012 for the Proposal of the Shelton Planning and Zoning Commission to rewrite Section 32: Earth Materials.**

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously roll call voted (6-0) to approve the Proposal of the Shelton Planning and Zoning Commission to Re-Write Section 32: Earth Materials Removal.

NEW BUSINESS

APPLICATION #12-14 SHELTON PARKS AND RECREATION DEPARTMENT FOR COASTAL AREA MANAGEMENT SITE PLAN APPROVAL (FLOATING DOCK AT SUNNYSIDE BOAT RAMP), 418 RIVER ROAD (MAP 66, LOT 135) – ACCEPT FOR REVIEW.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to accept Application #12-14 for review.

APPLICATION #12-15, SOUNDVIEW CROSSING, LLC FOR SUBDIVISION APPROVAL (SOUNDVIEW CROSSING PARCEL A: 3 LOTS), SOUNDVIEW AVENUE (MAP 126, LOT 8), R-1 DISTRICT: ACCEPT FOR REVIEW.

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to accept Application #12-15.

APPLICATION #12-16 SOUNDVIEW CROSSING, LLC FOR SUBDIVISION APPROVAL (SOUNDVIEW CROSSING PARCEL B: 7 LOTS), 245 SOUNDVIEW AVENUE (MAP 126, LOT 9), R-1 DISTRICT – ACCEPT FOR REVIEW.

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to accept Application #12-16.

Chair Parkins informed the Applicant for #12-15 and #12-16 who was present that he should appreciate that there will be some people at their August meeting and added that the Commission will probably give them the courtesy of speaking although it doesn't require a public hearing.

The Applicant responded that he looks forward to hearing their comments. Mr. Schultz asked if he would be willing to have an informal meeting with the neighbors if they request it. The Applicant indicated that he would prefer that they speak to Joe Rotundo of Rotundo Engineering because he could better answer their questions.

OTHER BUSINESS

APPROVAL OF THE MINUTES: 5/8/12, 5/23/12 AND 6/13/12

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to authorize the approval of the minutes for 5/18/12, 5/23/12 and 6/13/12.

PAYMENT OF BILLS

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to authorize the payment of bills, if funds are available.

STAFF REPORT

Mr. Schultz indicated that he would table his Staff Report to the next meeting. He indicated that the DSC Meeting would be held on Friday at 8:30 a.m.

ADJOURNMENT

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to adjourn the meeting at 10:32 p.m.

Respectfully Submitted,

Karin Tuke, P&Z Recording Secretary